



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

SECOND APPEAL NO.302 OF 2018

Baburao s/o Govindrao Patil,
Died L.R.

Arun s/o Baburao Patil

...APPELLANT

VERSUS

Smt. Nanibai w/o Nagacharya
Dharmadhikari and others

...RESPONDENTS

.....
Shri G.N. Chincholkar, Advocate for appellant
.....

CORAM: A.M. DHAVALÉ, J.

DATED : 31st October, 2018.

ORAL ORDER :

1. Father of the plaintiff and defendant has died in 2001. There is admission that there was earlier partition. Defendant No.2 has sold part of his land to defendant No.5. In the light of these facts, the appeal is admitted and substantial questions of law are framed as follows :

- (1) Whether the daughters are entitled for claiming share in the light of admission of earlier partition and death of father in 2001 ?
- (2) Whether the daughters were entitled for share equal to the share of brothers ?

(3) Whether the learned Courts below erred in not following the settled principles of law on the subject ?

2. In view of law points involved, the appeal is fixed for final hearing. Issue notices to respondents for final hearing returnable on 3rd December 2018. Mr. A.S. More, learned counsel waives service for respondent No.5

3. Appellant to supply compilation of depositions and documents.

4. The appeal is peremptorily fixed for hearing finally on 3rd December 2018.

5. The execution and implementation of the decree is stayed only to the extent of delivery of possession subject to condition that the appellant shall furnish security of Rs.50,000/- (Rupees fifty thousand) as per Order 41 Rule 5(3)(c) of the Civil Procedure Code before the Executing Court.

(A.M. DHAVALÉ)
JUDGE

fmp/