

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6926 /2025
[@ SLP [C] NO.4153/2019]

SAU. SUNANDA BABANRAO AWTADE Appellant(s)

VERSUS

SAU. URMILA DNYANESHWAR BHOSALE & ORS. Respondent(s)

O R D E R

Leave granted.

The present appeal has been filed by the appellant-defendant No.1, aggrieved by the judgment of the High Court, whereby the High Court dismissed the Second Appeal preferred by the appellant. The plaintiff, who is respondent No.1 before us, filed a suit for partition and possession of her 1/6th share in the suit property. The father of the plaintiff was arrayed as defendant No.2. The mother and siblings of the plaintiff were arrayed as defendant Nos.3-6 respectively. The appellant was arrayed as defendant No.1 as she had purchased the suit property from defendant No.2 vide sale deed dated 28.08.1995. Defendant Nos.2-6, being the family members of the plaintiff, admitted the plaintiff's claim. The said suit was decreed by the Trial Court and the sale deed was held to be valid only to the extent of defendant No.2's 1/6th share in the suit property. However, the

Trial Court granted 1/6th share each to the plaintiff and defendant Nos.2 to 6, without particularly granting any share to the appellant.

The impugned judgment of the High Court merely confirmed the findings of the Trial Court and the First Appellate Court. The findings are to the effect that the sale deed executed by defendant No.2, with respect to the shares of the plaintiff and the other defendant Nos.3 to 6 would not be binding upon them, as neither the legal necessity to execute the sale deed is proved nor is the appellant able to justify the sale, insofar as their shares are concerned.

In such view of the matter, we are not inclined to interfere with the impugned judgment. However, we make it clear that the fact that defendant No.2 executed a sale deed in favour of defendant No.1 is not in dispute. Hence, the appellant being the defendant No.1, is entitled for a decree *qua* the share of defendant No.2. In fact, the Trial Court itself has granted 1/6th share each to the plaintiff and defendant No.2.

In such view of the matter, it is not open for the defendant No.2 to have a recourse to his share, notwithstanding the sale effected by him, which has not been challenged over the years.

Accordingly, the judgment and decree of all the Courts stand modified to the effect that the

appellant is entitled to the share of defendant No.2, which comes to 1/6th share of the suit property.

The appeal stands allowed to the aforesaid extent.

Pending application(s), if any, shall stand disposed of.

.....J.
[M.M. SUNDRESH]

.....J.
[RAJESH BINDAL]

NEW DELHI;
MAY 05, 2025.

ITEM NO.53

COURT NO.8

SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 4153/2019

[Arising out of impugned final judgment and order dated 28-06-2018 in SA No. 325/2018 passed by the High Court of Judicature at Bombay]

SAU. SUNANDA BABANRAO AWTADE

Petitioner(s)

VERSUS

SAU. URMILA DNYANESHWAR BHOSALE & ORS.

Respondent(s)

IA No. 12565/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 12566/2019 - EXEMPTION FROM FILING O.T.

Date : 05-05-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.M. SUNDRESH

HON'BLE MR. JUSTICE RAJESH BINDAL

For Petitioner(s) Mr. Sudhanshu S, Choudhari, Sr. Adv.
Mr. Shirish K. Deshpande, AOR
Ms. Rucha Pravin Mandlik, Adv.
Mr. Mohit Goutam, Adv.
Mr. Rishi Didwania, Adv.
Ms. Gautami Yadav, Adv.
Ms. Pranjal Chapalgaonkar, Adv.

For Respondent(s) Mr. M. Y. Deshmukh, AOR
Ms. Manjeet Kirpal, Adv.
Ms. Sanyukta N. Suryawanshi, Adv.
Mr. Aswathaman D., Adv.
Mr. Atharva D. Kale, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

The appeal stands allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(ASHA SUNDRIYAL)
DEPUTY REGISTRAR

(POONAM VAID)
ASSISTANT REGISTRAR

[Signed order is placed on the file]