

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

SECOND APPEAL NO.16 OF 2012

Bapu Dadu Bagane & Ors.	...	Appellants
V/s.		
Ganpati Bala Patil		
(Since deceased through LR's)		
(a) Shrikant Ganpati Patil & Ors.	...	Respondents

.....

Mr.P.D. Dalvi, Advocate for the Appellants.
Mr.Rahul Walvekar, Advocate for the Respondents.

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CORAM : RAVI K. DESHPANDE, J.

DATED : JULY 7, 2015.

P.C.

The trial Court dismissed the Regular Civil Suit No.7 of 1995 for partition and separate possession. The Appellate Court has concurred with the decision of the trial Court and Regular Civil Appeal No.189 of 2005 has been dismissed on 3rd August, 2011. Hence, the original plaintiff is before this Court in this Second Appeal.

2 Undisputedly, the appellant - plaintiff is not the coparcener. He claims half share in the suit property which is an

ancestral property. The plaintiff has urged that he has purchased this property under a registered sale-deed dated 6th March, 1956 from one Rakhmabai.

3 In view of the aforesaid factual position, two questions were put to the learned counsel for the appellant:

(1) *Whether it was the suit for title based upon the registered sale- deed dated 6th March, 1956 and consequently for possession; and*

(2) *Whether the suit for partition at the instance of a person who was not the coparcener is maintained in law.*

The learned counsel has answered that it was not a suit based upon title on the basis of sale deed dated 6th March, 1956 and that the suit at the instance of person who was not a coparcener, is not maintainable for partition and separate possession. No substantial question of law arises. Second Appeal is dismissed.

(RAVI K. DESHPANDE, J.)