

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

FIRST APPEAL NO.679 OF 1988

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Mr.D.S.Sakhalkar for the appellant

CORAM : K.K.TATED, J.
DATED : 29TH JANUARY, 2015

PC:

1 Heard the learned counsel for the appellant.

2 None for the respondents though duly served.

3 Office note shows that First Appeal stands dismissed against respondent no.3 Nelson D'Mellow as per Registrar's Order dated 12.06.1990, against respondent no.5 Douglas D'Mellow abated vide Registrar's Order dated 19.06.2013, against respondent no.7 Miss Remitta D'Mellow dismissed as per Registrar's Order dated 02.07.1999, against respondent no.8 Miss Yonne D'Mellow abated vide Registrar's Order dated 08.01.1991, against respondent no.9 Dominic D'Mellow abated vide Registrar's Order dated 19.06.2013, against respondent

no.9(a) Daniel s/o Jerome Daniel and respondent no.10 Smt.Flory Rodrigues dismissed vide Court's Order dated 06.03.1990.

4 This First Appeal is preferred by the plaintiff challenging the judgment and decree dated 14.3.1988 passed by Bombay City Civil Court at Bombay in Suit No.3865 of 1965 for partition and exclusive possession.

5 In view of dismissal of First Appeal against some of the respondents / defendants, decree becomes final against them.

6 As the appellant in this First Appeal is challenging the order passed by the trial court in respect of partition suit, Appeal has become infructuous in view of subsequent developments.

7 The learned counsel for the appellant submits that though First Appeal is dismissed against some of the respondents, same is maintainable because the appellant is challenging the order passed by the trial court on the ground that court erred in coming to the conclusion that the suit property was joint property and not self acquired property of appellant. It is to be noted that the trial court has not framed any issue about the self acquired property. Hence, this objection is not maintainable.

8 In view of the subsequent developments
nothing survives in the First Appeal.

9 Hence, First Appeal is dismissed.

(K.K.TATED, J.)