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

**SECOND APPEAL NO.420 OF 2010
ALONG WITH
CIVIL APPLICATION NO.1051 OF 2010
ALONG WITH
CIVIL APPLICATION NO.412 OF 2014**

Smt.Savitrabai Malhari Wanzare & Ors. .. Appellant
Vs.
Bajirao Patilbuva Wanzare
(Since deceased through his Lrs.)
2A. Paraji Bajirao Wanzare & Ors. .. Respondents

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Mr.Ketan V. Joshi i/b. Mr.S.A. Sawant, Advocate for the Appellants.
Mr.Sagar Mane i/b. Mr.N.V. Bandiwadekar, Advocate for the
Respondents.

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CORAM : R.K. DESHPANDE , J.
DATED : JUNE, 17 2015.

P.C. :

The trial Court dismissed the Regular Civil Suit No.89 of 1992 for partition and separate possession on 8th March, 2006. The Appellate Court has concurrent the finding recorded by the trial Court and consequential the Regular Civil Appeal No.60 of 2006 has been dismissed on 7th September, 2009 and hence the original plaintiff is before this Court.

2 During the pendency of the proceedings before the trial Court a plea was raised in the written statement by way of amendment that the joint application was made by the parties on 20th December, 1996 to the concerned Tahasildar for partition of the suit property which has been accepted and the partition has taken place. The appellant - plaintiff amended the plaint and raised a ground that this partition was done behind her back, and it is not equitable and not binding upon her. Both the Courts below have recorded the concurrent findings of fact that the joint application was made by the plaintiffs and the defendants to the Tahsildar on 20th December, 1996 for partition which has been accepted after recording the statement of the plaintiff no.1 and also the defendant no.5. Both the Courts below have accepted this theory of partition effected during the pendency of the suit and the question as to whether the property was ancestral or self acquired involved in the suit lost its significance. It is not the case of the plaintiff that she did not sign the joint application dated 20th September, 1996 and that her statement was not recorded by the Tahasildar before accepting the partition. In view of this, no substantial question of law arises for consideration. Second Appeal is dismissed.

3 In view of dismissal of the Second Appeal the Civil Application No.1051 of 2010 and 412 of 2014 do not survive and is disposed of accordingly.

(R.K. DESHPANDE, J.)