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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

SECOND APPEAL NO.589 OF 2016

Govind Dhondiba Gadhe and Others	APPELLANTS
VERSUS	
Gopinath Dhondiba Gadhe and Others	RESPONDENTS

.....
Mr. Shivaji T. Shelke, Advocate for the appellants
.....

[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 20th SEPTEMBER, 2016

ORDER :

1. Heard learned advocate for the appellants.
2. The appellants are plaintiffs in Regular Civil Suit No.416 of 2011 instituted for declaration of ownership and perpetual injunction based on a partition deed executed by deceased father in 1986.
3. Learned advocate for the appellants submits that although there are concurrent findings on facts and partition deed may not have been placed on record, yet there is contemporaneous material in the shape of revenue record, which gives an indication of the partition deed having been executed and acted upon and accordingly entries in revenue record have taken place.

4. Mutation entry bearing No.87 is in favour of the appellants, however, in the appellate proceedings before revenue authorities, the same could not be sustained and mutation entry No.596 has been taken.

5. Both the courts have taken stock of the factual situation and even have noted earlier litigation in the shape of Regular Civil Suit No.176 of 1996, wherein it had been found that deceased Dhondiba was owner of Gut No.74. Said decision had become conclusive. Considering evidence as is coming on record and the circumstances, both the courts have concurrently considered that the plaintiffs have failed to prove their title and possession over suit property by adducing any cogent and convincing evidence.

6. This second appeal has come against concurrent findings of facts, which do not appear to suffer any material infirmity or for that matter any perversity. In the circumstances, it does not appear that the second appeal would give rise to any substantial question of law. Second appeal, thus is not being entertained and is dismissed in limine.

[SUNIL P. DESHMUKH, J.]