

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

SECOND APPEAL NO.756 OF 2013

Annappa Mahadeo Koli (since deceased)

through his legal heirs

A) Shamrao Annappa Koli (since deceased)

through his legal heirs

1-A.1) Smt.Laxmibai Shamrao Koli & Ors. .. Appellants

Vs.

Ramu Mahadu Koli (since deceased)

through his legal heirs

A) Subhas Ramu Koli & Ors. .. Respondents

Mr.Vijay Killedar for Appellants.

Mr.P.D. Pise for Respondent nos.1 and 2.

CORAM : R.D. DHANUKA, J.

DATE : 14th September 2016

P.C.

. By this appeal filed under Section 100 of the Code of Civil Procedure, 1908, the appellants (original plaintiffs) have impugned the order and judgment dated 17th August 2011 passed by the Principal District Judge, Sangli thereby dismissing the Regular Civil Suit No.486 of 1993 passed by the Joint Civil Judge, Junior Division, Sangli.

2. Mr.Killedar, learned counsel appearing for the appellants fairly invited my attention to the issues framed by the learned trial Judge and more particularly issue no.4 i.e. 'whether the defendants prove that suit suffers due to non-joinder of necessary party' and also the finding rendered by the learned trial Judge on the said issue. He also invited my attention to the finding rendered by the appellate Court in paragraph 18 of the impugned order and judgment dated 17th August 2011.

3. There is no dispute that the suit was for partition of the property. All the parties who were entitled to have share in the suit property were not impleaded as parties to the suit. In respect of some of the parties who were impleaded as parties to the suit, the plaintiffs have withdrawn the suit against them. The learned trial Judge has accordingly held that the suit was bad for non-joinder of necessary parties and was not tenable in absence of necessary and proper parties to the suit. The appellate Court has confirmed the findings recorded by the learned trial Judge on maintainability of the suit.

3. Since it is not in dispute that all parties who were necessary and/or proper parties to the suit for partition were not joined as parties to the suit, the suit is rightly dismissed as bad for non-joinder of necessary parties. No substantial question of law has arisen in this appeal. Appeal is devoid of merit and is accordingly dismissed. No order as to costs.

R.D. DHANUKA, J.