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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**SECOND APPEAL NO.759 OF 2015
WITH
CIVIL APPLICATION NO.9906 OF 2015
IN
SECOND APPEAL NO.759 OF 2015**

1. Kashinath Sayabanna Hattarge,
Age: 72 years, Occ: Agri.,

2. Hanumant Saybanna Hattarge,
Age: 67 years, Occ: Agri.,

Both R/o. Murum, Tq. Omerga,
Dist. Osmanabad.

..APPELLANTS

VERSUS

Gangabai w/o Kashinath Purane,
Age: 52 years, Household,
R/o. Murum, Tq. Omerga,
Dist. Osmanabad.

..RESPONDENT

Mr Paraga V. Barde, Advocate for appellants;

CORAM : N.W. SAMBRE, J.

DATE : 26th JULY, 2017

ORAL ORDER :

The appellants-defendants suffered decree for partition and separate possession, which is questioned in this second appeal, on the ground that both the Courts below without having any territorial jurisdiction, exercised their powers,

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as one of the property, of which, partition is ordered is situated outside the jurisdiction of this Court.

2. Considered the submissions in the light of provisions of Code of Civil Procedure.

3. The fact remains that of the properties of which partition is sought, one of the property is situated at Omerga in Osmanabad district, which is within jurisdiction of this Court and also of the trial Court.

4. As such, part of cause of action arose to the respondent-plaintiff within territorial jurisdiction of the trial Court.

5. In my opinion, substantial question of law, as is sought to be espoused, is without any legal basis. As such, second appeal lacks merit and stands dismissed.,

6. It is claimed that amount of Rs.20,000/-

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is deposited in the trial Court towards condition for granting stay. As it is held that the appeal lacks substance, in my opinion, of the amount of Rs.20,000/-, Rs.10,000/- be paid paid to the Bar Association, Omerga, District Osmanabad and balance amount of Rs.10,000/- be adjusted in the amount, if any, made payable against mesne profit.

7. Consequently, civil application stands dismissed.

(N.W. SAMBRE, J.)

Tupe