

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Second Appeal No.537 of 2015
(Laxman s/o Ramji Gaikwad (Dead), through LRs. Smt. Shantabai wd/o
Laxman Gaikwad and others v. Govinda s/o Ramji Gaikwad)

Office Notes, Memoranda of Coram,
appearances, Court's orders or directions Court's or Judge's orders
and Registrar's order

Shri A.S. Agrawal, Advocate for Appellants.

Coram : R.K. Deshpande, J.
Date : 19th January, 2017

The Trial Court dismissed the suit for partition and separate possession. The lower Appellate Court has allowed the appeal and the suit for partition has been decreed, holding that the plaintiff has half share in the suit property along with the legal heirs of deceased Laxman Gaikwad, who is also held to have half share in the house property. The original defendants, who are the legal heirs of deceased Laxman Gaikwad, are before this Court in this second appeal.

The theory of previous partition was put forth to defend the suit for partition. Exhibit 53 dated 23-3-1974, a document of partition, is placed on record. The lower Appellate Court has held that if this is the document of partition, then it is inadmissible in evidence in the absence of it being registered, as required by Section 17 of the Registration Act, 1908. So far as

the theory of oral partition is concerned, there is nothing placed on record that after the alleged partition dated 23-3-1974, the parties were put in possession of their respective shares, the revenue entries were altered, and accordingly their names were recorded and they had partitioned the property thereafter in any manner.

No substantial question of law arises for consideration.

The second appeal is dismissed.

Judge.

Lanjewar