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

***SECOND APPEAL NO. 212 OF 2016
with
CIVIL APPLICATION NO. 395 OF 2016***

Mr. Mahadev Tatoba Ghatage. ...Appellant/Applicant.

V/s.

Mr. Sadhashiv Tatoba Ghatage & Ors. ... Respondents.

Mr. Prashant Kulkarni i/b. Abhijeet Desai for the
Appellant/Applicant.

Mr. G.N. Salunkhe i/b. N.B. Khaire for Respondent 1 to 7.

CORAM : N.M. Jamdar, J.

DATE : 23 January, 2018.

Oral Order :-

The Appellant, who is the Original Defendant No.1, has challenged the concurrent judgments and orders passed by the learned Civil Judge, Junior Division, Gadhinglaj in Regular Civil Suit No. 79 of 2005 dated 20 November 2009 and by the learned District Judge, Gadhinglaj in Regular Civil Appeal No. 1 of 2010 dated 30 January 2016. The learned Civil Judge decreed the suit filed by the Respondent – Plaintiff for partition and the learned

District Judge by dismissing the Appeal has confirmed the order. The learned Counsel for the Appellant has advanced submissions as regard two properties i.e. Block No.824 and Block No. 575 situated at Village Hadalage. It is the contention of the Appellant that though there existed a joint family and there may be existence of other joint family properties Block No. 824 and Block No. 575 are self-acquired properties of Defendant No.1.

2. As regard Block No. 824 is concerned, reliance is placed by the Appellant on the mutation entries to contend that these properties were purchased by the Appellants. Both the Courts have considered this submission. The alleged mutation entry refers to a sale deed of 14 August 1975. The Appellant was born on 1 July 1965. Both the Courts have therefore rightly noted that since he was 13 years old at that time. It could not be believed that he had an independent source of income to purchase the property. There is no error or perversity in this view. It is settled that mere revenue entries will not confer title.

3. As far as Block No. 575 is concerned, it is the contention of the Appellant that in Regular Civil Suit No. 109 of 1994, a declaration was given that the Appellant is the owner of this property by way of an adverse possession. Again reliance is placed on entries in revenue record. The learned Counsel for the Respondents

pointed out that the suit was not filed by the Appellant alone but also Plaintiff No.1, who was the party in the suit. The case of the Plaintiffs therein was that they were in possession till the year 1960. The Appellant was born on 1 July 1965. Both the Courts have also noted that the judgment and decree in that suit would show that the property was claimed as a joint family property. As regard the theory of compromise, no documentary evidence was adduced by the Appellant.

4. Considering the fact that the burden was on the Appellant to demonstrate that the properties were self-acquired properties and that the Appellant has failed to prove the same, there is no perversity in assessment of evidence. No substantial question of law arises. The Second Appeal is dismissed. The Civil Application stands disposed of.

(N.M. Jamdar, J.)