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

SECOND APPEAL NO. 428 OF 2017

Datta Pawar	...	Appellant.
V/s.		
Gopal Laxman Surve (decd)		
through legal heirs	...	Respondents

Mr. Ramesh K. Cheulkar, for Appellant.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 5th JUNE, 2018.

P.C. :

- 1] Heard learned counsel for appellant.
- 2] This Second Appeal has been preferred against the concurrent finding of fact, recorded by the trial Court and the Appellate Court.
- 3] Appellant has filed suit for partition and separate possession of the suit properties, contending inter alia that they are the ancestral family properties of appellant and respondent Nos. 1 & 2. However, the appellant-plaintiff in his cross examination itself, has categorically admitted that in the year 1948-49 itself, partition was effected and in the said partition Dhondur Narayan Pawar received 10 Ana 8 pai share. Accordingly entries were made in the revenue

record also.

4] In view thereof, both the trial Court and the Appellate Court, have rightly held that if the partition was already effected as per own admission of appellant, the second suit for partition cannot be tenable.

5] In view thereof, no substantial question of law being raised in the appeal. There is no case made out for admission of the appeal.

6] The appeal, therefore, stands dismissed.

[DR.SHALINI PHANSALKAR-JOSHI, J.]