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

**SECOND APPEAL (ST) NO.36158 OF 2017
WITH
CIVIL APPLICATION NO.773 OF 2018
IN
SECOND APPEAL (ST) NO.36158 OF 2017**

Sulochana Tukaram Khutwal
and ors ... Appellants.

V/s.

Bablya @ Bhau Sakharam Khutwal
and ors ... Respondents

Mr. Sujay H. Gangal, for the appellants.
Mr. Jagdish Jayale, for respondent No.1.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J

DATE : 4th JULY, 2018.

P.C. :

1] Heard learned counsel for the appellants and respondent.

2] This Second Appeal takes an exception to the judgment and order dated 9.10.2017, passed by the District Judge-1, Mangaon, District : Raigad, thereby dismissing Regular Civil Appeal No.60 of 2010, which was preferred against the judgment and decree dated 27.10.2010, passed by the Civil Judge Junior Division, Mangaon, in Regular Civil Suit No.70 of 2005.

3] The said suit was filed by respondent No.1 herein against the predecessors of the appellants, for the partition of the suit

properties, on the ground that they are the joint family properties.

4] The appellant had contested the said suit claiming that all the necessary parties and all the joint family properties were not joined in the suit. A specific contention was raised in respect of room at Mumbai which according to appellant was purchased by their father and the same was sold to him and Krishna.

4] The trial Court after appreciating the evidence on record, came to the conclusion that the room in Bombay does not form part of the ancestral joint family property, it being self acquired property. The said finding of fact is confirmed by the appellate Court also after reappraisal of evidence on record.

5] In view thereof, no question of law, far remain, any substantial question of law is raised in this Second Appeal. This Court cannot re-enter into appreciation of evidence and become the third Court of fact finding which is strictly barred by Section 100 of Code of Civil Procedure.

6] In view thereof, the Second Appeal holds no merit and therefore, stands dismissed.

7] In view of dismissal of appeal itself, Civil Appeal No.773 of 2018 becomes infructuous and the same is disposed off accordingly.

[DR.SHALINI PHANSALKAR-JOSHI, J.]