

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

SECOND APPEAL NO.409 OF 2018

Shri.Yashwant Dinkar Yadav & Ors. ..Appellants

V/s.

Shri.Tukaram Gunyaba Yadav & Ors. ..Respondents

Mr.S.B. Shetye for the Appellant.

CORAM : S.C. GUPTE, J.

DATE : 06th NOVEMBER 2019

P.C.

1. Heard learned counsel for the parties.

2. This Second Appeal challenges two concurrent judgments and orders passed by the Court of Jt. Civil Judge, Wai in RCS No.154 of 1995 and the District Court at Satara in Regular Civil Appeal No.280 of 2007.

3. It is the case of the appellants-original plaintiffs that the property, which was the subject matter of the suit, was a joint family property. The plaintiffs sought a declaration and separate possession of their share. Defendant Nos.1 and 3 contended before the Court that the properties were self acquired properties of the

defendants. Gat No.229 was said to be a self acquired property of the defendant Nos.1 and 3, whereas Gat No.259 was a self acquired property of defendant No.1. Both courts below gave concurrent findings in respect of the suit properties and held that the properties, respectively, of defendant Nos.1 and 3 and of defendant No.1 were self acquired properties. It is the case of the appellant that the Courts below have not taken into account relevant circumstances. In my view, the orders passed by the Courts below are clearly supported by the evidence and there is no perversity or illegality about impugned orders. The orders neither suffer from any error of jurisdiction nor from any apparent error. The orders are passed after taking into account all relevant and germane circumstances and materials, and without regard to anything irrelevant or non-germane.

4. So far as the other factual aspect of the matter is concerned, it is the case of the appellant that partition had already placed in the joint family prior to 1966 and that a fresh suit for partition was accordingly not maintainable. Even here both Courts have arrived at a concurrent finding of fact in favour of the defendants and against the plaintiff. Once again, there is no infirmity to be found in the impugned order on the issue giving rise

to any substantial question of law for the consideration of this Court.

5. Accordingly, there is no merit in the Second Appeal. It is dismissed. No order as to costs.

(S.C. GUPTE, J.)