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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.343 OF 2016

Baban B. Undre & Ors.	...Appellants
V/s.	
Malan V. Ravalekar	...Respondent

Mr.Kuldeep S. Patil for the Appellants.

None for the Respondent.

CORAM : R.D. DHANUKA, J.
DATE : 20TH AUGUST, 2019.

P.C. :-

1. By this second appeal filed under section 100 of the Code of Civil Procedure, 1908, the appellants (original defendants) have impugned the judgment and decree dated 31st October, 2015 passed by the District Judge upholding the judgment and decree dated 28th March, 2013 passed by the learned Joint Civil Judge, Junior Division decreeing the suit partly filed by the respondent no.1.

2. The suit was filed by the respondent no.1 *inter-alia* praying for partition of the suit property by meets and bounds and to give a separate 1/5th share in the property and for other reliefs. The suit was resisted by the contesting defendants by filing the written statement. Learned trial Judge after considering the oral and documentary evidence rendered a finding that the plaintiff had proved that the suit property was the ancestral property of the family of the

plaintiff and the defendants and was entitled to partition. The defendants had failed to prove that the ancestral property of the joint family was already partitioned. The learned trial Court accordingly declared that the plaintiff and the defendant no.7 had 8% share in the suit property and the defendants nos.1 to 3 were 1/30th each share in the suit property.

3. The appellate Court after considering the oral and documentary evidence independently has also rendered a finding that the contesting defendants had failed to prove that the suit properties were already partitioned and the payment of Rs.25.00 lakhs alleged to have been given by the contesting defendants to the plaintiff and upheld the decree passed by the learned trial Judge. The findings of fact rendered by the two Courts below are rendered after considering the oral and documentary evidence. No substantial question of law arise in this second appeal. The second appeal is devoid of merit and is accordingly dismissed. There shall be no order as to costs.

(R.D. DHANUKA, J.)