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

SECOND APPEAL NO. 456 OF 2021

Sadashiv Nama Jadhav

(Since deceased through legal heirs)

Smt.Sakhubai Sadashiv Jadhav and Ors.

... Appellants

V/s.

Jannath Gunda Jadhav and Ors.

... Respondents

Mr.Nikhil N. Pawar, Advocate for Appellant.

Mr.Umesh Pawar, Advocate for Respondent Nos. 2A to 2E.

CORAM : S. M. MODAK, J.

DATE : 1st DECEMBER, 2022

P. C. :-

1. Taken on board by way of praecipe for speaking to minutes.
2. Heard learned Advocate Shri.Nikhil N. Pawar for the Appellants and learned Advocate Shri.Umesh Pawar for Respondent Nos.2A to 2E. The Appellants want the portion starting from

“During arguments, learned Advocate for the Appellants could not point of any factual inaccuracy in those findings. He has not relied upon any provisions of law on the point of partition of tenanted property. In view of that, those findings cannot be said to be perverse.”,

appearing at the end of Para No.14, be deleted. According to him, in fact, during arguments, he has clarified that he is not arguing anything about findings in respect of *Survey No.198/1*. He also submitted that, that is a tenanted property and the trial Court has partitioned that land. Whereas, the first Appellate Court has reversed it and dismissed the Suit in respect

of that land. In view of this, there is no occasion for the Appellants to challenge those findings.

3. Learned Advocate Shri.Umesh Pawar submitted that the first Appellate Court has disallowed the claim of Nama being the sole tenant of this land and else, he consented for deleting only the line starting from

“During arguments, learned Advocate for the Appellants could not point of any factual inaccuracy in those findings”.

According to him, the observations in three lines at the end of Para No.4, be kept as it is.

4. It is true that the first Appellate Court while reversing the findings in respect of *Survey No.198/1* has observed :-

“Therefore, it is crystal clear that the suit property was in possession of Nama and his name was entered in the revenue record for the joint family of Nama, Bhujanga and Gunda”. (Para No.25)

According to Appellant, he has not challenged these findings.

5. In view of that, the portion as suggested by Appellants from Para No.14, can be deleted. Hence, that portion be deleted (Para No.14) and necessary modification be done. Order be uploaded.

6. It is submitted by learned Advocate Shri.Umesh Pawar that in fact, he is not representing all the Respondents but representing only Respondent Nos. 2A to 2E. So, necessary correction also be made in the appearance column in the judgment.

[S. M. MODAK, J.]