



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

SECOND APPEAL NO. 264 OF 2023

Vyankat s/o Govind Haridas
& another

.. Appellants

Versus

Shriram s/o Govind Haridas

.. Respondent

Mr. V. D. Gunale, Advocate for the appellants.

Mr. R. R. Deshpande, Advocate holding for Mrs. P. R. Deshpande, Advocate
for the respondent.

CORAM : R. M. JOSHI, J.

DATE : 9th JANUARY, 2024.

PER COURT :

1. Heard.
2. Plaintiffs have filed Special Civil Suit no. 73/2016 seeking compensation in respect of Gat No. 62 and 63 situated at village Kamkheda, Tq. Renapur, Dist. Latur. It is the case of plaintiffs that plaintiffs and defendant are having 1/3rd share out of the said amount of compensation. The suit came to be decreed by the learned Trial Court by passing impugned judgment and decree dated 5th December, 2019. The said decree was challenged by defendant in Regular Civil Appeal No. 5/2020. While allowing the

appeal, the First Appellate Court has dismissed the suit. Against dismissal of the said suit, present appeal is filed by plaintiffs.

3. Learned counsel for appellants submits that error is committed by learned First Appellate Court in holding partition deed is not proved and that it failed to consider that unregistered document can be used for collateral purpose, as held by Trial Court.

4. Perusal of judgment of the First Appellate Court shows that the First Appellate Court has held that plaintiff has failed to prove partition deed though further observations are also made with regard to effect of registration/non-registration inadequate stamping of said document. The said further discussion is inconsequential when the First Appellate Court has rightly come to the conclusion that the plaintiffs have failed to prove the deed of partition. Merely because the document was exhibited, it cannot be treated to be proved. The Trial Court has exhibited the document subject to the proof thereof in accordance with law. Entire case of plaintiffs, rests upon partition deed. Once the said document is not proved in evidence, entire suit must fail. This Court, therefore, finds no

perversity in the findings recorded by the First Appellate Court in this regard. As such, no substantial question of law is involved in the appeal filed by the plaintiffs. Hence, appeal is dismissed.

(R. M. JOSHI)
Judge

dyb