



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

SECOND APPEAL NO. 32 OF 2026

Dhano Bulchand Vaswani & Ors.

..Appellants

Versus

Behram Kali Mehta And Ors.

...Respondents

**WITH
INTERIM APPLICATION NO. 1233 OF 2026
IN
SECOND APPEAL NO. 32 OF 2026**

**WITH
INTERIM APPLICATION NO. 77 OF 2026
IN
SECOND APPEAL NO. 32 OF 2026**

Mr. Vineet Naik, Senior Advocate, Mr. Sharan Jagtiani, Senior Advocate, a/w Rumi Mirza, Mr. Hitesh Vyas, S P Kanuga, for the Appellants/Applicants.

Mr. Firoz Bharucha i/by Mr. Parvez S Daruwalla, for Respondent 1B & 4.

Mr. Bhavik Lalan a/w Ms. Shelsha Sheth & Mr. Milind Parab i/by FZB & Associates, for the Respondent Nos. 5, 6A & 8 to 10.

CORAM: N. J. JAMADAR, J.

DATE : 18th FEBRUARY 2026

P.C.:

1. Heard the learned Counsel for the parties.
2. The following substantial question of law, arises for consideration:-

Whether the Courts below committed an error in discarding the evidence of Mr. Gangawane – PW – 2 and the reports submitted by him, especially the map (Exh. 158) on the ground that, the said map was not proved in evidence, due to non-examination of Mr. Joshi - the



Cadastral Surveyor, when the survey was conducted in the presence, and under the supervision of Mr. Gangawane PW-2, and that resulted in a miscarriage of justice?

3. Issue notice to the respondents, returnable on 15th April, 2026.
4. Mr. Bharucha, the learned Counsel waives notice for the Respondent Nos. 1-b and 4.
5. Mr. Lalan, the learned Counsel waives notice for Respondent Nos. 5, 8 to 10.
6. In addition to notice through Court, the appellants are at liberty to serve the rest of the respondents by private service and file an Affidavit of Service.
7. Having regard to the short substantial question of law involved, the parties are put to notice that, an effort will be made to hear and decide the appeal at the stage of admission itself.
8. The appellant shall file a private paper book within a period of six weeks from today.

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9. This Court has framed substantial question of law on which the appeal is required to be heard.
10. During the pendency of the first appeal and even after disposal of the first appeal, the interim relief in the nature of maintaining *status quo* has been in operation.



11. Since a *prima facie* case is made out, if the *status quo* is altered during the pendency of Second Appeal, the plaintiffs will suffer prejudice. Hence, the said interim relief shall continue to operate till the disposal of the Second Appeal.

12. The Interim Application thus stands disposed.

[N. J. JAMADAR, J.]