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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 395 OF 2019
WITH
CIVIL APPLICATION NO. 1244 OF 2019

Bharat Sahebrao Shinde and Another ... Appellants/Applicants
Vs.
Shri Bhaskar Shivrm More and Others ... Respondents

Ms. Smita Gaidhani for the Appellant/Applicant.

Mr. Vaibhav D. Kadam a/w. Mr. Aditya A. Thorat, Mr. Shrinath
Badade, Mr. Kalpesh Karkera, Ms. Shweta Jadhav and Mr. Vedika
Bhoir for the Respondents.

CORAM : GAURI GODSE, J.

DATE : 4th MARCH 2025

ORDER :

1. Heard learned counsel for the parties. The second appeal is
admitted on the following substantial questions of law :

(i) In the absence of specific pleading regarding the right of
way by prescription whether the decree passed for declaration
and injunction would be sustainable ?

(ii) In the absence of any particular pleadings regarding the
date of inception of the right of way and through whom,

whether the plaintiff would be entitled to a declaration of easementary rights of way by way of prescription ?

2. Learned Advocate for the respondents waives notice.
3. Call for record and proceedings.
4. Printing is dispensed with.
5. Learned Advocate for the appellants shall file private paper book within one year from today.

Civil Application No. 1244 of 2019

6. Rule on interim relief in terms of prayer clause (a) and (b) is made returnable on 6th May 2025.
7. Learned Advocate for the respondents waives notice.
8. Respondents are at liberty to file affidavit in reply.
9. Learned counsel for the appellant is also at liberty to file additional affidavit in respect of the prayer in the application.

[GAURI GODSE, J.]