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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**SECOND APPEAL NO. 183 OF 2016
WITH
CIVIL APPLICATION NO. 335 OF 2016
INTERIM APPLICATION ST NO. 10530 OF 2025
IN
SECOND APPEAL NO. 183 OF 2016**

Kanhaiyalal Bacchumal Alathakkar

.....Appellant

Vs.

Haushabai Bhimaji Ghorpade and anr

.....Respondents

Mr. R. D. Soni i/b Karle Ram and Co. Advocate for the Appellant

CORAM : GAURI GODSE, J.

DATE : 7th MAY 2025

ORDER:

INTERIM APPLICATION ST NO. 10530 OF 2025:

1. This application is for bringing on record names of heirs and legal representatives of deceased sole appellant. There is delay in filing the application.

2. I have called upon learned counsel for the appellant to point out whether the second appeal raises any question of law.

3. Heard learned counsel for the appellant. The second appeal raises the following substantial question of law.

(I) In view of findings on issue of execution of the agreement and payment of earnest money paid to defendant nos. 1 to 3, whether the agreement will bind the shares of defendant nos. 1 to 3.

(II) In view of the terms of the agreement casting obligation on both parties to complete the contract, whether the findings on readiness and willingness recorded by both the Courts would be sustainable?

(III) In view of the findings recorded that the defendants had committed breach of terms of the contract, whether the prayers for specific performance of the contract can be refused on the ground that the plaintiff was not ready and willing to perform the contract?

4. Issue notice to the respondents in the Interim Application St No. 10530 of 2025. Notice is made returnable on 1st August 2025.

5. In addition to Court notice, learned advocate for the appellant

shall serve the respondents by private notice and file affidavit of service before the next date.

[GAURI GODSE, J.]