

varsha

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION(ST) NO. 16376 OF 2025
IN
SECOND APPEAL NO. 888 OF 2016**

Shir Shahaji Shivram Bhujbal since ... Applicant/Appellant
deceased through Lrs

vs.

Shri Ramesh Manik Jadhav ... Respondent

Mr. Girish Godbole, Senior Advocate a/w. Mr. Pradeep Thorat
a/w. Mr. Pandurang Gaikwad a/w. Mr. Bhalchandra Shinde i/b.
Mr. Vivek Salunkhe for the Appellant in both the Appeals.

CORAM : GAURI GODSE, J.

DATED : 6th MAY 2026

ORDER:

1. This application is to bring on record the names of the heirs and the legal representative of the sole appellant. There is a delay in filing the application. Since the second appeal has remained pending for admission since 2015, I called upon the learned counsel for the appellant to point out whether the second appeal raises any substantial question of law.

2. I have heard the learned senior counsel for the appellant. The second appeal raises the following substantial questions of law:

I. Whether, in the absence of any amendment to the plaint, the appellate court could have placed reliance upon the alleged sale deed executed in favour of the Plaintiff in RCS No. 169 of 2001 during the pendency of the First Appeal?

II. Whether a suit seeking mandatory injunction for removal of encroachment, without claiming the consequential relief of possession, is barred under Section 41(h) of the Specific Relief Act, 1963?

III. Whether, in view of the legal principles settled in ***Anathula Sudhakar Vs P. Buchi Reddy***¹, it is necessary to relegate the respondent (plaintiff) to file a comprehensive suit for declaration of title and possession instead of deciding the issue in a suit for injunction ?

3. Issue notice to the respondent in the interim application returnable on 1st July 2026.

1 (2008) 4 SCC 594

4. In addition to the court notice, the learned advocate for the applicants shall serve the respondent by private notice and file an affidavit of service before the next date.
5. Learned advocate for the applicants shall ensure that the copies are supplied and court notice is issued by taking humdast.
6. Ad-interim protection already granted on 15th November 2016 shall continue till the next date.

(GAURI GODSE, J.)