

Arjun

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

SECOND APPEAL NO.181 OF 2023

Neera Sanjay Patil ...Appellant

V/s.

Smt. Hansaben Suryakant Joshi (Patel) ...Respondent

Mr. D. S. Mhaispurkar, for the Appellant.

**CORAM : MADHAV J. JAMDAR, J.
DATED : JULY 17, 2023**

P.C.:

- 1.** Heard Mr. Mhaispurkar, learned counsel appearing for the Appellant.
- 2.** He pointed out agreement to lease dated 10th December, 1990 which has been exhibited at Exhibit-15 before the learned Trial Court. He further pointed out agreement to lease dated 24th April, 2002 which is produced in the Trial Court at Exhibit-39. He submitted that agreement to lease dated 24th April, 2002 is the registered document.
- 3.** He pointed out certain recitals on page Nos.26 and 27 i.e. internal page Nos.3 and 4 of the said document dated 24th April, 2002. He submitted that, although, the lease deed at

Exhibit-15 was discarded by both the Courts on the ground that the same is not registered, however, for the collateral purposes, the same can be taken into consideration. He further submitted that, the recitals of agreement to lease dated 24th April, 2002 i.e. Exhibit-39 clearly shows that the Appellant has constructed the suit structures. He submitted that there is concept of dual ownership and the Appellant is the owner of the suit structures. He submitted that the said legal position is not considered by both the Courts.

4. Hence, the Second Appeal is admitted on the following substantial question of law :

i] Whether the finding that the Plaintiff has failed to prove the ownership of the suit rooms is without taking into consideration the agreement to lease dated 24th April, 2002 (Exhibit-39) and also agreement to lease dated 10th December, 1990 (Exhibit-15) which can be read for collateral purposes?

[MADHAV J. JAMDAR, J.]