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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
SECOND APPEAL NO. 141 OF 2015  
WITH  
CIVIL APPLICATION NO. 1398 OF 2015  
IN  
SECOND APPEAL NO. 141 OF 2015**

Vijay Gangaram Mhatre ... Appellant/Applicant

vs.

Vadudev Devayya Tendulkar and Ors ... Respondents

Mr. Drupad Patil a/w. Mr. Sumit Kothari for Appellant/Applicant.

**CORAM : GAURI GODSE, J.**

**DATED : 27<sup>th</sup> NOVEMBER 2024**

**ORDER:**

**SECOND APPEAL NO. 141 OF 2015**

1. Heard learned counsel for the appellant. The second appeal is admitted on the following substantial questions of law formulated in ground nos. 5, 7 and 8 of the second appeal memo:

I) Whether the first appellate court failed to appreciate that the plaintiff tenants have not led any evidence on the point of alleged easmentary rights over the open space?

II) Whether the Regular Civil Suit No. 83 of 1987 filed by the plaintiff tenants was maintainable before the civil court?

III) Whether a tenant can claim any easmentary right against the landlord over the property situated adjacent to the tenanted property?

2. In addition to Court notice, learned advocate for the appellant to serve the respondents, by private notice and file affidavit of service.

3. Call for records and proceedings.

4. Printing is dispensed with.

5. Learned advocate for the appellant shall file private paper-book within a period of one year from today.

**CIVIL APPLICATION NO. 1398 OF 2015**

6. Rule on interim relief in terms of prayer clauses (a) and (c) is made returnable on 5<sup>th</sup> February 2025.

7. In addition to Court notice, learned advocate for the applicant to serve the respondents, by private notice and file affidavit of service before the next date.

8. Till next date, there will be ad-interim stay in terms of prayer clause(b).

**(GAURI GODSE, J.)**