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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
SECOND APPEAL NO. 425 OF 2021  
WITH  
INTERIM APPLICATION NO. 3683 OF 2021  
IN  
SECOND APPEAL NO. 425 OF 2021**

Raju Mohandas Athwani son and sole legal heir Mohandas Tarachand Athwanian and Ors ... Appellants/Applicants

vs.

Ameenabale Shaikh Hafizulla Delhiwalla ... Respondents  
(Decd thr. Lrs) Shaikh Junaid Amed Hafizulla  
and Ors

Mr. Girish Godbole i/b. Mr. Rahul Soman a/w. Mr. Pradeep Salgar,  
for Appellants.

Mr. Bhooshan R. Mandlik for Respondent Nos. 2, 4, 5,8,9,10,12 and  
15.

**CORAM : GAURI GODSE, J.**

**DATED : 25<sup>th</sup> NOVEMBER 2024**

**ORDER:**

1. Heard parties.
2. Second appeal is admitted on the following substantial questions of law:

- I) Whether the power of attorney executed in favour of defendant no.8, creates any interest in the subject matter of the suit property in favour of defendant no.8 for the continuation of the power of attorney even after the death of the original owners who executed the power of attorney?
- II) Whether the power of attorney in favour of defendant no.8, can be termed as irrevocable power of attorney on the ground that it created interest in favour of defendant no.8?
- III) Whether the sale deed executed in favour of defendant nos. 1 to 3 by defendant no.8 can be termed as a valid sale deed based on the general power of attorney in favour of defendant no.8?
- IV) Whether in view of the agreement for sale executed in favour of defendant nos. 4 to 7, the protection under section 53A of the Transfer of Property Act, 1882 be available to defendant nos. 1 to 3 who claimed to be in possession through defendant nos. 4 to 7?
- V) Whether the reasons recorded by both the courts on the validity of the power of attorney in favour of defendant no. 8 is on correct interpretation of Sections 201, 202 read with Section 208 of the Indian Contract Act,1872?

3. Learned advocate waives notice on behalf of respondent nos. 2, 4, 5,8,9,10,12 and 15.
4. In addition to Court notice, learned advocate for the appellants to serve the remaining respondents, by private notice and file affidavit of service.
5. Call for records and proceedings.
6. Printing is dispensed with.
7. Learned advocate for the appellants shall file private paper-book within a period of one year from today.

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8. Rule on interim relief in terms of prayer clauses (b) and (c) is made returnable on 3<sup>rd</sup> February 2025.
9. Learned advocate waives notice on behalf of respondent nos. 2, 4, 5,8,9,10,12 and 15.
10. In addition to Court notice, learned advocate for the appellants to serve the remaining respondents, by private notice and file affidavit of service before the next date.

**(GAURI GODSE, J.)**