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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 134 OF 2024
WITH
INTERIM APPLICATION NO. 1891 OF 2024

Ganpat Kedu Yashwante ... Appellant/Applicant

Vs.

Chhanansing Harising Pardeshi ... Respondents

Deceased through Legal Heirs

Mr. Ishaan Kapse a/w. Mr. Shubham for the Appellant/Applicant.

CORAM : GAURI GODSE, J.

DATE : 22nd OCTOBER 2024

ORDER :

1. Heard learned counsel for the Appellant. The Second Appeal is admitted on the following questions of law which are formulated in ground nos. 6, 8 and 12 of the appeal memo:

- (i) Whether the learned District Court should have considered the fact that the northern part of the suit property belonged to Yadav, said fact was not challenged by the Respondents, which could instead draw a presumption that the southern side belonged to the Appellant ?

(ii) Whether negative inference should have been drawn against the Defendant No. 1 for not examining himself to prove the sale deed?

(iii) Whether the learned District Court could have considered that the Defendant No. 1 i.e. purchaser was not part of the family and should have been treated as a stranger and to that effect he was not liable for any portion (possession) of the suit property ?

2. In addition to court notice, learned Advocate for the appellant to serve the respondents by private service and file service affidavit.
3. Call for record and proceedings.
4. Printing is dispensed with.
5. Learned Advocate for the appellant shall file private paper book within one year from today.

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6. Rule on interim relief in terms of prayer clause (a) is made returnable on 11th February 2025.
7. In addition to court notice, learned Advocate for the applicant to serve the respondent by private service and file service affidavit before the next date.

8. Till next date, by way of ad-interim relief the parties shall not create third party in respect of the suit properties.

[GAURI GODSE, J.]