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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 545 OF 2020

WITH

SECOND APPEAL NO. 627 OF 2020

WITH

INTERIM APPLICATION NO. 3723 OF 2019

IN

SECOND APPEAL NO. 627 OF 2020

Smt. Lilawati Shivajirao Patil

.....Appellant

Vs.

Devgonda Dada Vhanure
(Since Decd. Thr. Lrs)

.....Respondents

Mr. S. R. Ganbavale a/w Mr. Raturaj Pawar for the appellant
Mr. Padmanabh D. Pise a/w Ms. Sejal A. Hariyan for respondents

CORAM : GAURI GODSE, J.

DATE : 19th JUNE 2024

ORDER:

1. Heard learned counsel for the parties. The second appeals are admitted on the following questions of law:

SECOND APPEAL NO. 545 OF 2020:

- (i) Whether the suit for specific performance could have been decreed in the absence of any specific pleadings on the agreement sought to be specifically performed?
- (ii) Whether the agreement dated 19th April 1993 and supplementary agreement dated 21st July 1995 could be termed as a concluded contract entitling the plaintiff to seek specific performance against the defendant?
- (iii) Whether the suit for specific performance based on an agreement dated 19th April 1993 was within the period of limitation?
- (iv) Whether in absence of specific findings of readiness and willingness of the plaintiff as required under section 16 of the Specific Relief Act, the suit for specific performance could have been decreed?
- (v) Whether the findings recorded by the Trial Court and confirmed by the Appellate Court regarding payment of consideration amount is supported by any evidence?

SECOND APPEAL NO. 627 OF 2020:

(vi) Whether the suit for injunction filed by the appellant could have been dismissed only on the ground of specific performance in favour of the respondents?

(vii) Whether the plaintiff is entitled to decree for injunction based on title as admittedly the suit property owned by the appellant's husband was bequeathed to her?

2. Mr. Padmanabh Pise waives service for respondent in both second appeals.

3. Call for record and proceedings in both the second appeals. Printing is dispensed with in both the second appeals.

4. Appellant shall file private paper-book within a period of one year, in both the second appeals.

INTERIM APPLICATION NO. 3723 OF 2019 IN SECOND APPEAL NO. 627 OF 2020:

5. Rule on interim relief in terms of prayer clause (A) is made returnable on 28th August 2024.

6. Till next date, there will be ad-interim relief in terms of prayer clause (A).

[GAURI GODSE, J.]

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