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

**INTERIM APPLICATION NO. 19810 OF 2022
IN
SECOND APPEAL NO. 714 OF 2022**

Shri. Mohan Pandurang Raskar ...Applicant
Versus
Shri. Sanjay Vishnu Raut ...Respondent

Mr. Vaibhav R. Gargade, for the Applicant.

Mr. Rushikesh C. Barge, for the Respondent.

**CORAM : MADHAV J. JAMDAR, J.
DATED : 28th JULY 2023**

P.C. :

1. By separate order dated 28th July 2023, the Second Appeal is admitted on the substantial question of law framed therein.
2. The Respondent-Plaintiff filed suit for specific performance of agreement dated 11th October 2006. The Appellant i.e. Defendant filed written statement. The gist of the written statement as recorded by the learned Trial Court in paragraph 6 of the judgment is reproduced hereinbelow:-

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“6] As per the contention of the defendant in the year 2006 the defendant was doing service towards plaintiff. The plaintiff and his brothers are doing many businesses. In connection of the business the plaintiff used to make some agreement in his own name and some in the name of defendant. For that purpose plaintiff used to say defendant to purchase the stamp in the name of the defendant. Sometimes plaintiff used to take the signature of defendant on blank paper for the purpose of making agreement for business purpose. Thus, by taking signature of defendant on blank stamp paper the plaintiff has brought into existence the alleged false agreement dated 11/10/2006 and lodged the false suit against the defendant by taking the help of that false agreement to sale. Hence, lastly defendant prayed to dismiss the suit with cost of Rs.5,000/.”

3. It is the contention of the Appellant that due to his illness, he could not cross-examine the witnesses of the Respondent as well as could not lead his evidence.

4. The Second Appeal has been admitted on the following substantial question of law:-

“Whether in the facts and circumstances of this case, suit is

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required to be remanded back to the learned Trial Court to afford Appellant-Defendant proper opportunity?”

5. The hearing of Second Appeal is expedited by order dated 28th July 2023 passed in Second Appeal.

6. Accordingly, the Interim Application is disposed of in terms of prayer clause (a) with no order as to costs.

[MADHAV J. JAMDAR, J.]