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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**SECOND APPEAL NO. 329 OF 2018
WITH
INTERIM APPLICATION NO. 8260 OF 2024
IN
SECOND APPEAL NO. 329 OF 2018
WITH
CIVIL APPLICATION NO. 738 OF 2018
IN
SECOND APPEAL NO. 329 OF 2018
WITH
CIVIL APPLICATION NO. 1667 OF 2018
IN
SECOND APPEAL NO. 329 OF 2018**

Avinash Prabhakar Bhate Died through LR

.....Appellant

Vs.

Shrihari Purshottam Panchwadkar and ors

.....Respondents

Mr. Sachinkumar Rajepandhare for the appellant

Mr. Ajay A. Joshi for respondent nos. 1 and 2

CORAM : GAURI GODSE, J.

DATE : 31st JULY 2024

ORDER:

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

- (i) Whether in view of execution of the retirement deed dated 28th March 2003, plaintiffs would be entitled to seek declaration that they are partners of registered firm and seek a dissolution with effect from the date mentioned in the reconstituted deed?
 - (ii) Whether any non compliance of the terms and conditions of the retirement deed, would entitle the plaintiffs to a declaration that they continue to be partners of the partnership firm?
 - (iii) Whether the plaintiffs are entitled to seek accounts on the ground of being partners in spite of execution of retirement deed?
 - (iv) Whether the plaintiffs are entitled to a declaration as prayed or the plaintiffs would be entitled to compensation or specific performance of the terms of the retirement deed?
- 2. Mr. Ajay Joshi waives service for respondent no. 1 and 2.
 - 3. In addition to Court notice, appellant to serve respondent no. 3

by private notice and file affidavit of service.

4. Call for record and proceedings. Printing is dispensed with.

5. Appellant to file private paper-book within a period of one year.

CIVIL APPLICATION NO. 738 OF 2018:

6. Second appeal is already admitted on the questions of law recorded in the order admitting the second appeal. The contesting parties are respondent nos. 1 and 2, who are represented. Respondent no. 3 would not be necessary so far as hearing of the application is concerned.

7. Heard learned counsel for the parties. Considering the nature of the dispute between the parties and the nature of the impugned decree, execution and operation of the impugned decree shall remain stayed during the pendency of the appeal. The names of the original plaintiffs i.e. respondent nos. 1 and 2 shall not be deleted from the record of rights of the properties standing in the name of partnership firm during the pendency of the appeal.

8. None of the parties shall create third party interest in respect of the properties of the partnership firm during pendency of the second

appeal.

9. Civil Application is disposed of in above terms.

[GAURI GODSE, J.]