

Iresh

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 125 OF 2024**

Smt. Narvadabai Vishnu WarungseAppellant

Vs.

Shri. Pandurang Shankar AvhadRespondent

Mr. Nikhil Pujari for the appellant

Ms. Manasi Pawar i/b Mr. Rahul Motkari for respondent

CORAM : GAURI GODSE, J.

DATE : 9th SEPTEMBER 2024

ORDER:

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1. Heard learned counsel for the appellant. The second appeal is admitted on the following substantial questions of law:

I. Whether the suit for specific performance could have been dismissed on the ground that the plaintiff was not ready and willing to perform his part of contract in as much as, in view of the terms of the agreement, the obligation was on the defendant to obtain necessary permission and the only obligation on the part of the plaintiff was payment of balance consideration at the time of execution of the sale

deed?

II. Whether the suit notice issued by the plaintiff after eight years from the period of three years provided for obtaining permission, could have been a ground to hold the issue of readiness and willingness against the plaintiff?

III. Whether the suit for specific performance could have been dismissed on the findings recorded on readiness and willingness against the plaintiff, when the defendant failed to file any written statement and even cross-examine the plaintiff and rebut the plaintiff's evidence?

2. Ms. Manasi Pawar waives service for the respondent.
3. Call for record and proceedings. Printing is dispensed with.
4. Learned advocate for the appellant shall file private paper-book within a period of one year.

[GAURI GODSE, J.]