

varsha

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 454 OF 2024
WITH
INTERIM APPLICATION NO. 453 OF 2024
IN
SECOND APPEAL (ST) NO. 14058 OF 2023

Yusuf Abdul Maner since deceased
through Legal Heirs ... Applicants/Appellants

vs.

Ms. Mahadeo Dresses through Partners
Mahadev Igushna Rangate since ... Respondents
deceased through Legal Heirs

Mr. Drupad Patil for Applicant.

CORAM : GAURI GODSE, J.

DATED : 18th SEPTEMBER 2024

ORDER:

SECOND APPEAL (ST) NO. 14058 OF 2023

1. Heard learned counsel for the appellants. Learned counsel for the appellants submits that the second appeal raises the following substantial questions of law:

I) Whether after recording affirmative finding on issue no. 1 and 2 that defendant no.1 got the possession of suit property on 16/3/1978 as usufructuary mortgage, whether learned Judge of Trial

court was justified in holding that defendants are tenants of the suit property?

II) Whether the First Appellate Court ought to have appreciated that, in the absence of payment of any rent to the plaintiff, can the defendants be called as tenants of suit property?

III) Whether the findings recorded by the learned Judges that defendant no.1 is occupying the suit property as tenant since 16th February 1982 is perverse and has been recorded without any evidence?

IV) Whether the learned Judges were justified in rejecting the prayer made for redemption of mortgage, particularly when the execution of said mortgage was duly proved by the plaintiff?

2. Perused the judgements of both the courts.

3. Issue notice in Interim Application No. 454 of 2024 to respondents returnable on 17th December 2024.

4. In addition to Court notice, learned advocate for the applicants to serve the respondents, by private notice and file affidavit of service before the next date.

(GAURI GODSE, J.)