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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 440 OF 2024
WITH
INTERIM APPLICATION NO. 10653 OF 2024
IN
SECOND APPEAL NO. 440 OF 2024**

Sanjay Vithobha Todkar (since ... Appellants
Deceased through Heirs)

Vs.

Ramgonda Satyagonda Patil ... Respondent
since deceased through Heirs

Mr. Sandeep Koregave for the Appellants.

CORAM : GAURI GODSE, J.

DATE : 30th JULY 2024

ORDER :

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

(i) Whether the First Appellate Court erred in reversing the findings recorded by the trial court on the document of partition deed not accepted by the trial court as document of partition ?

(ii) Whether the reasons recorded by the First Appellate

Court on the document of partition deed are not sustainable in view of the legal principles settled by the Apex court in the case of Shyam Narayan Prasad vs. Krishna Prasad and Others reported in (2018) 7 SCC 646 and K. Arumuga Velaiah vs. P. R. Ramasamy and Another reported in (2022) 3 SCC 757 ?

(iii) Whether the plaintiff would be entitled to partition and separate possession in the absence of any satisfactory finding record on the previous partition ?

(iv) Whether an unregistered document at Exhibit 175 can be treated as the document of partition for denying the prayer for partition made by the plaintiff ?

2. In addition to court notice, appellant to serve the respondent by private service and file service affidavit.
3. Call for record and proceedings.
4. Printing is dispensed with.
5. Appellant shall file private paper book within one year from today.

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6. Notice is made returnable on 8th October 2024.
7. In addition to court notice, applicant to serve the respondent by private service and file service affidavit before the next date.

[GAURI GODSE, J.]