

MJ Jadhav

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 405 OF 2024
WITH
INTERIM APPLICATION NO. 10114 OF 2024
IN
SECOND APPEAL NO. 405 OF 2024**

Doctor Vasant Moreshwar Mehandale ... Appellant
(Deceased)

vs.

Milind Ekanth Joshi and anr. ... Respondents

Mr. Shailendra Kanetkar for the Appellant.

Mr. Sumodh Modak i/b Prasanna Malashe for Respondent Nos.
1 & 2.

CORAM : GAURI GODSE, J.

DATED : 12th JULY 2024

ORDER:

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

- (i) Whether the first appellate Court ignored execution of separate agreement (Exhibit-30), which was executed on the same day of the sale deed and whether execution of the said agreement would

support the case of the plaintiff that there was no absolute transfer of title in favour of the defendant, but it was a conditional sale?

(ii) Whether the first appellate Court erred in dismissing the suit by accepting the sale deed at Exhibit-32 as a absolute transfer of title without recording any findings on the effect of execution of a separate agreement on the same day, which was produced on record at Exhibit-30?

2. Mr. Prasanna Malashe wavier service for respondent no. 1 and 2. In addition to court notice, appellant to serve the respondents by private service .

3. Call for record and proceedings.

4. Printing is dispensed with.

5. Appellant shall file private paper book within one year from today.

INTERIM APPLICATION NO. 10114 OF 2024 :

6. Rule on interim relief in terms of prayer clause (a) and (b) is made returnable on 27th September 2024.

7. Mr. Prasanna Malashe wavier service for respondent no. 1 and 2. In addition to court notice, appellant to serve the respondents

by private service .

8. There will be ad-interim relief in terms of prayer clause (a).

(GAURI GODSE, J.)