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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 427 OF 2024
WITH
INTERIM APPLICATION NO. 10455 OF 2024
IN
SECOND APPEAL NO. 427 OF 2024**

Shri Ramesh Anand Satpute ... Appellant

Vs.

Shri Abdul Badshah Mujawar ... Respondent

Mr. Ashok B. Tajane a/w. Mr. Balaji Shinde for the Appellant.

CORAM : GAURI GODSE, J.

DATE : 16th JULY 2024

ORDER :

1. Due to technical error of connectivity it is not possible to access soft copy. Learned counsel for the appellant has tendered hard copy of the original set of the Second Appeal as well as the Interim Application which is taken on record.

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

(i) Whether the First Appellate Court could have dismissed the suit for specific performance for want of prayer for declaration on the validity and subsistence of the suit

agreement, when on 17th August 2012 there was already an extension agreed between the parties for performance of the agreement, i.e. before the notice of termination dated 20th September 2012 ?

(ii) Whether reversal of finding of the trial court by the First Appellate Court amounts to ignoring the vital evidence in support of the extension agreed between the parties on 17th August 2012 for performance of the agreement which is accepted by the trial Court after considering the document as well as oral evidence on record ?

(iii) Whether the First Appellate Court erred in dismissing the suit for specific performance by holding that the suit was not maintainable for want of seeking relief of declaration, in as much as the same amounts to incorrect appreciation of the facts and evidence on record and more particularly the extension agreed between the parties on 17th August 2012 ?

3. In addition to court notice, appellant to serve the respondent by private service and file service affidavit.
4. Call for record and proceedings.
5. Printing is dispensed with.

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

INTERIM APPLICATION NO. 10455 OF 2024

7. Rule on interim relief in terms of prayer clause (a) is made returnable on 24th September 2024.

8. Till next date the ad-interim protection granted by the First Appellate Court operating during the pendency of the appeal granted on 20th March 2018 to continue till further orders.

9. In addition to court notice, appellant to serve the respondent by private service and file service affidavit.

[GAURI GODSE, J.]