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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
SECOND APPEAL NO. 479 OF 2024  
WITH  
INTERIM APPLICATION NO. 11171 OF 2024**

Raosaheb Shankar Shingan ... Appellant/Applicant

Vs.

Subhash Rangnath Shingan ... Respondent

Mr. Drupad S. Patil i/b. Mr. Hrishikesh M. Khupsare for the  
Appellant/Applicant.

**CORAM : GAURI GODSE, J.**

**DATE : 6<sup>th</sup> AUGUST 2024**

**ORDER :**

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

(i) Whether after considering the pleadings and oral as well as documentary evidence on record, it was necessary for the First Appellate Court to record specific findings on the nature of the document dated 2<sup>nd</sup> April 1992 as to whether it was a document of absolute sale transaction or a mortgage document ?

(ii) In view of the documentary evidence produced by the

plaintiff in the form of revenue records at Exhibit Nos. 8, 9 and 10 in support of the plaintiff's contention of being in possession, whether the counter claim could have been decreed only on the ground of averments in the document dated 2<sup>nd</sup> April 1992 ?

(iii) Whether it was necessary for the First Appellate Court to consider whether the prayer of the plaintiff was for redemption of mortgage in view of the supporting pleadings and evidence produced by the plaintiff ?

(iv) Whether the counter claim could have been decreed in the absence of any specific evidence on record to support the defendant's case of being in possession on the date of filing the counter claim ?

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.

**Interim Application No. 11171 of 2024**

6. Rule on interim relief in terms of prayer clause (a) and (b) is made returnable on 19<sup>th</sup> November 2024.
7. In addition to court notice, applicant to serve the respondent by private service and file service affidavit before the next date.
8. Till next date there will be ad-interim relief in terms of prayer clause (d).

**[GAURI GODSE, J.]**