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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 615 OF 2024
WITH
INTERIM APPLICATION(ST) NO. 28731 OF 2024
IN
SECOND APPEAL NO. 615 OF 2024**

Dnyandeo Tukaram Pawar and Ors ... Appellants/Applicants
vs.
Sunil Narayan Pawar since Deceased ... Respondents
through Lrs and Ors

Mr. Tejpal S. Ingale a/w. Ms. Priyanka Babar a/w. Mr. Chaitanay N.
Narvekar for Appellants/Applicants.

**CORAM : GAURI GODSE, J.
DATED : 8th OCTOBER 2024**

ORDER:

1. Heard learned counsel for the appellants. Second Appeal is admitted on the following substantial questions of law which are formulated in point nos. 1 to 3 in the appeal memo:

1. Whether the First Appellate Court was justified in law in passing decree for specific performance of the alleged unregistered Sale Deed dated 29.12.2008 at Exh. 55 in respect of suit property, which was not prayed by the Plaintiffs

in the suit Regular Civil Suit No. 49/2012?

2. Whether the Plaintiffs proved that the Defendant Nos. 1 to 5 have orally agreed to sell the suit property in their favour by oral Agreement dated 20.01.2008, by accepting initial consideration of Rs. 25,000/- even in the absence of examining any witness or the mediators before whom the oral Agreement for Sale took place as alleged by the Plaintiffs ?

3. Whether the First Appellate Court was justified in law in holding that the Plaintiffs proved that they have paid the earnest money and consideration as per the oral Agreement for Sale dated 20.01.2008 and unregistered Sale Deed dated 29.12.2008 at Exh. 55, even in absence of examining the mediators named by them in whose presence they orally agreed to sell suit property and paid initial consideration and in the absence of examining any attesting witness and absence of receipt of the payment of consideration ?

INTERIM APPLICATION(ST) NO. 28731 OF 2024.

2. Learned counsel for the appellants submits that Interim Application(St.) No. 28731 of 2024 is filed for interim relief. He submits that the said application is listed on the text board notified on the website. It appears that the said application is not listed on

the PDF file and the board which is shared with the court. A copy of the interim application is tendered by the learned advocate for the applicant and the same is taken on record. Office is directed to verify as to why the Interim Application is listed on the text board and not listed on the PDF board. Printout of the text board and PDF board is placed on record by the learned counsel for the applicant.

3. Copy of this order to be forwarded to the learned Registrar(Judicial-I) for information.

4. Rule on interim relief in terms of prayer clause (a) is made returnable after 14 weeks.

5. In addition to Court notice, learned counsel for the applicant to serve the respondents, by private notice and file affidavit of service before the next date.

6. Till next date there will be ad-interim stay in terms of prayer clause (a).

(GAURI GODSE, J.)