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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 46 OF 2023
WITH
INTERIM APPLICATION NO. 7209 OF 2024
IN
SECOND APPEAL NO. 46 OF 2023**

Shri Suryakant Ladu Shirsat and Ors ... Appellants/Applicants

vs.

Shri Mohan Dattaram Shirsat (Decd
thr. Lrs) Kamal Mohan Shirsat and
Ors ... Respondents

Mr. G.H. Keluskar, for Appellants/Applicants.

CORAM : GAURI GODSE, J.

DATED : 27th JUNE 2024

ORDER:

1. Heard. The Second Appeal is admitted on the following substantial questions of law:-

I) Whether the suit for simplicitor injunction could have been decreed without there being a specific finding on exclusive ownership of the plaintiffs?

II) Whether the suit for an injunction could have been decreed when admittedly the original holder of the suit property was Babaji and there was no finding recorded with

regard to any partition or separate possession of the plaintiffs?

III) Whether the finding of fact recorded by the Trial Court and confirmed by the Appellate Court with regard to plaintiffs possession is not in accordance with the pleadings and evidence on record?

2. In addition to Court notice, appellants to serve the respondents by private notice and file affidavit of service.

3. Call for records and proceedings.

4. Printing is dispensed with.

5. Appellants shall file private paper-book within a period of one year from today.

INTERIM APPLICATION NO. 7209 OF 2024

6. A hard copy of the Interim Application is tendered by the learned counsel for the applicant, and the same is taken on record.

7. Rule on interim relief in terms of prayer clause (a) returnable on 6th September 2024. In addition to Court notice, applicants to serve the respondents by private notice and file affidavit of service. before the next date.

(GAURI GODSE, J.)