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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 8936 OF 2024
WITH
INTERIM APPLICATION NO. 8932 OF 2024
WITH
INTERIM APPLICATION NO. 8933 OF 2024
IN
SECOND APPEAL(ST) NO. 11379 OF 2024

Sarjerao Baba Pawar ... Applicants/Appellants
Deceased through his Legal Heirs

Vs.

Sopan Maruti Pawar Deceased ... Respondents
through its Legal Heirs

Mr. Umesh Mankapure a/w. Ms. Stefy Dias and Ms. Rutuja Khatmode
for Appellants / Applicants.

CORAM : GAURI GODSE, J.

DATE : 18th SEPTEMBER 2024

ORDER :

1. Heard learned counsel for the applicants. Learned counsel for the applicants submits that the Second Appeal raises following substantial questions of law :

(i) Whether the First Appellate Court erred in deciding the application at Exhibit 26 filed by the heirs of the plaintiff

instead of simplicitor setting aside the decree passed by the trial court on the ground it was passed against a dead person ?

(ii) Whether the First Appellate Court instead of deciding application at Exhibit 26 should have set aside the decree of the trial court on the ground that it was passed against a dead person leaving it open for the plaintiff to take appropriate steps by taking out appropriate proceeding for setting aside abatement of the suit ?

2. I have perused the papers of the Second Appeal as well the application for condonation of delay. Issue Notice of Interim Application No. 8932 of 2024 returnable on 16th December 2024.

3. Office is directed to issue notice alongwith copy of this order. In addition to court notice learned Advocate for the applicant to serve the respondents alongwith copy of this order and file service affidavit before the next date.

[GAURI GODSE, J.]