

varsha

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 29 OF 2022**

**WITH
INTERIM APPLICATION NO. 9437 OF 2024**

**IN
SECOND APPEAL NO. 29 OF 2022**

Balasaheb Laxman Mane ... Appellant/Applicant

vs.

Dattatraya Dadasaheb Desai and Ors ... Respondents

Mr. Satya M. Shettigar, for Appellant/Applicant.

CORAM : GAURI GODSE, J.

DATED : 4th DECEMBER 2024

ORDER:

SECOND APPEAL NO. 29 OF 2022

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

I) Since the suit proceeded against the defendants without a written statement, whether the findings recorded by the trial court by examining the oral and documentary evidence produced by the plaintiff would be sustainable in the absence of any specific issues framed?

II) Whether the reasons recorded by the trial court disbelieving plaintiff's contentions would be sustainable in the absence of any rebuttable pleadings and evidence by the

defendants?

III) Whether the first appellate court erred in not considering that in the absence of any rebuttable pleadings and evidence, the pleadings and evidence of the plaintiff could have been accepted?

2. In addition to Court notice, learned advocate for the appellant to serve the respondents, by private notice and file affidavit of service.
3. Call for records and proceedings.
4. Printing is dispensed with.
5. Learned advocate for the appellant shall file private paper-book within a period of one year from today.

INTERIM APPLICATION NO. 9437 OF 2024

6. Rule on interim relief in terms of prayer clause (b) is made returnable on 26th February 2025.
7. In addition to Court notice, learned advocate for the applicant to serve the respondents, by private notice and file affidavit of service before the next date.
8. Ad-interim relief already granted to continue till the next date.

(GAURI GODSE, J.)