

rrpillai

Digitally
signed by
RAJESHWARI
RAMESH
PILLAI
Date:
2024.12.07
08:11:52
+0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 11990 OF 2024
IN
SECOND APPEAL NO. 526 OF 2024

Annasaheb Appa Patil and Another ... Appellants/Applicants

Vs.

Bharat Dadu Dubale and Another ... Respondents

Mr. Amrut Joshi a/w. Mr. Sanket Mungale i/b. Mr. Kartik Vig for the
Appellants/Applicants.

Mr. S. C. Mangle a/w. Mr. B. V. Salunkhe for the Respondents.

CORAM : GAURI GODSE, J.

DATE : 25th NOVEMBER 2024

ORDER :

1. Heard learned counsel for the parties. The second appeal is admitted on the following substantial questions of law framed under ground (a), (c) and (h) of the appeal memo which reads as under:

(a) Whether the First Appellate Court has committed an error by wrongly interpreting the express clauses of the suit agreement dated 14th December 2008 ?

(c) Whether the First Appellate Court failed to give deliberation to the fact that there were delay and laches in the context of Section 20 of Specific Relief Act, 1963, on the part of the Plaintiffs in approaching the Court seeking specific performance of the contract as the Application for amendment was made only in September 2012?

(h) Whether the First Appellate Court has committed an error while dealing with the issue of readiness and willingness of the Plaintiffs to perform their part of Contract because on one hand the Appellate Court has observed that various obligations such as sanction of layout, conversant to N.A. etc. were not required for execution of Sale Deed and on the other hand, the Appellate Court has ignored the fact that there was no attempt on the part of the Plaintiff to pay to the Defendants the balance consideration while wrongly observing that they were ready and willing to perform the Suit Agreement?

2. Learned Advocate for the respondents waives notice.
3. Call for record and proceedings.

4. Printing is dispensed with.
5. Learned Advocate for the appellants shall file private paper book within one year from today.

Interim Application No. 11990 of 2024

7. Rule on interim relief in terms of prayer clause (a) is made returnable on **17th February 2025**.
8. Learned Advocate for the respondents waives notice. He seeks time to file affidavit in reply. Reply to be filed before the next date.
9. There will be ad-interim relief in terms of prayer clause (a).
10. Appellants shall not create an third party right in respect of the suit property during the pendency of the **Interim** Application.

[GAURI GODSE, J.]