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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 13908 OF 2024
WITH
INTERIM APPLICATION NO. 13907 OF 2024
IN
SECOND APPEAL (ST) NO. 25454 OF 2024

Shrimanti S. Koli and Ors ... Applicants/Appellants

vs.

Vilas Shamrao Koli ... Respondent

Mr. Kuldeep U. Nikam for Applicants/Appellants.

CORAM : GAURI GODSE, J.

DATED : 22nd OCTOBER 2024

ORDER:

1. Learned counsel for appellants on instructions seeks leave to withdraw the interim applications and second appeal with liberty to file an appeal challenging the order dated 30th October 2023 passed in the Final Decree Proceeding No. 3 of 2016 and order dated 31st January 2023 passed below Exhibit-33 in the final decree proceedings.

2. Learned counsel for the appellants submits that by application at Exhibit -33, the appellants have agreed for 1/8th share each in view of the settled legal principles in the case of *Vineeta Sharma Vs. Rakesh Sharma*¹.

1 (2020) 9 SCC 1

3. Learned counsel for appellants further submits that pursuant to the order passed in the final decree proceedings, possession warrant is issued. He thus, submits that the appellant be granted protection to enable the appellants to file an appropriate appeal as stated above.

4. Appellants have agreed for partition and separate possession for 1/8th share, in view of the legal principles settled in case of *Vineeta Sharma*; hence the appellants are not pressing for the second appeal challenging the decree for partition and separate possession. I therefore, find it appropriate to grant liberty to the appellants as prayed and grant them protection to enable the appellants to file an appropriate application for interim relief in the appeal that they propose to file.

5. Leave granted to withdraw the second appeal with liberty to file an appropriate appeal as permissible in law to challenge the order as requested on behalf of the appellants. Subject to the appellants filing an appropriate appeal alongwith the application for interim relief within four weeks from today, the possession warrant shall not be executed for a period of six weeks from today.

6. In view of the aforesaid, interim applications and second appeal are disposed of as withdrawn with liberty as recorded above.

(GAURI GODSE, J.)