VARSHA VIJAY RAJGURU Digitally signed by VARSHA VIJAY RAJGURU Date: 2024.12.16 10:21:07 +0530



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# IN THE HIGH COURT OF JUDICATURE AT BOMBAY
## CIVIL APPELLATE JURISDICTION
## SECOND APPEAL NO. 103 OF 2022
## WITH
## INTERIM APPLICATION NO. 14763 OF 2024
## IN
## SECOND APPEAL NO. 103 OF 2022

Shri Chandrakant Ragunath Sawant … Appellant/Applicant

vs.

Shri Satish Madhukar Salgaonkar and Ors … Respondents

Mr. Sanskar C. Marathe (through VC) for Appellant/Applicant.

Ms. Sunita Sonawane for Respondent No.1.

CORAM : GAURI GODSE, J.

DATED : 14th DECEMBER 2024

ORDER:

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

I) In the absence of any material produced on record to indicate that the appellant was aware about the sale deed executed by defendant nos. 2 to 7 in favour of defendant no.1, whether the suit could have been dismissed as barred by limitation?

II) In view of the plaintiff's case that after the date of knowledge of the sale deed in favour of defendant no.7, the plaintiff filed a suit within three years can be accepted as the suit being within a period of limitation, in view of Article 58 of the Limitation Act?

III) When both the courts accepted that the plaintiff was entitled to 1/3rd share in the suit property, whether the suit could have been dismissed as a whole as barred by limitation or whether it was necessary for both the courts to consider grant of partition and separate possession as the sale deed in favour of defendant no.1 could not be binding upon the plaintiff's share?

2. The issue regarding abatement if any in view of death of respondent no.2 is kept open.

3. Learned advocate for respondent no.1, waives notice.

4. In addition to Court notice, learned advocate for the appellant to serve the remaining respondents, by private notice and file affidavit of service.

5. Call for records and proceedings.

6. Printing is dispensed with.

7. Learned advocate for the appellant shall file private paper-book within a period of one year from today.

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8. Issue notice to respondent nos. 2a to 2b, returnable on 7th March 2025.

9. Learned advocate for respondent no.1, waives notice.

10. In addition to Court notice, learned advocate for the applicant to serve the remaining respondents, by private notice and file affidavit of service before the next date.

(GAURI GODSE, J.)