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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 139 OF 2020
WITH
INTERIM APPLICATION NO. 15058 OF 2024
IN
SECOND APPEAL NO. 139 OF 2020**

Shri Gulam H. Bhagan Mulla (Deceased Thr.
Legal Heirs) Smt P.G. Hussain Mulla (Decd)
Mr. Mohammad Haddris Gulam Husain Mulla
and Ors ... Appellants/Applicants

vs.

Shri Baliram Narayan Gaikwar and Ors ... Respondents

**WITH
INTERIM APPLICATION NO. 15047 OF 2024
IN
SECOND APPEAL NO. 139 OF 2020**

Shri Mohammad Hamid Gulam Hussain Mulla ... Applicants/Appellants
since deceased through Lrs

vs.

Shri Baliram Narayan Gaikwar and Ors ... Respondents

Mr. V.N. Biwalkar for Appellants/Applicants

CORAM : GAURI GODSE, J.

DATED : 2nd DECEMBER 2024

ORDER:

SECOND APPEAL NO. 139 OF 2020

1. Learned counsel for the appellants submits that this second

Note : This is the corrected Order as per speaking to minutes order dated 16th January 2025

appeal raises substantial questions of law on the document of surrender of tenancy relied upon by the respondents. He submits that the said document relied upon for accepting surrender of tenancy is not exhibited. He therefore submits that the appellant is entitled to protection as the deceased plaintiff was inducted as a tenant and the surrender of tenancy is not proved.

2. Learned counsel for the appellants therefore submits that the appellants would be entitled to the decree that they should not be dispossessed without any due process of law.

3. The second appeal raises the following substantial questions of law:

- I) Whether the appellants can be denied protection based on the document of surrender of tenancy which is not proved?
- II) In view of the deceased appellant being inducted as a tenant based on agreement for sale at Exhibit 98, whether the appellants could have been held entitled to a decree for protection that they should not be dispossessed without following due process of law?

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4. Issue notice to the respondents returnable on 24th February 2025.

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

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6. Issue notice to respondent nos. 1 to 3 returnable on 24th February 2025.

7. In addition to Court notice, learned advocate for the applicants to serve the said respondents, by private notice and file affidavit of service, before the next date.

(GAURI GODSE, J.)