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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 812 OF 2024
WITH
INTERIM APPLICATION NO. 15867 OF 2024**

Yeshwant Punaji Pathare and Another ... Appellants/Applicants
Vs.

Urmila Laxman Sahastrabuddhe and Others ... Respondents

Mr. Anil Anturkar, Senior Advocate (through VC) a/w. Mr. Amol Gatne
for the Appellants/Applicants.

CORAM : GAURI GODSE, J.

DATE : 20th DECEMBER 2024

ORDER :

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

- (i) In view of the disputed facts of the case, whether the issue of limitation would be a mixed question of law and fact and therefore whether the first appellate court could have framed and decided the issue of limitation for the first time in the appeal court ?

(ii) In view of the registered sale deed in favour of plaintiff produced at Exhibit 47 which is not challenged by the defendants whether a finding could have been recorded that appellants have not proved the ownership over the suit property ?

(iii) In view of the dispute on the oral partition claimed by the plaintiffs, whether both the courts should have considered that in view of the sale deed in favour of the plaintiffs in any case he would be entitled to the title to the suit property with regard to undivided share claimed by him pursuant to the sale deed ?

2. In addition to court notice, learned Advocate for the appellants to serve the respondents by private service and file service affidavit.
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.

[GAURI GODSE, J.]