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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 136 OF 2025

WITH

INTERIM APPLICATION NO. 1804 OF 2025

IN

SECOND APPEAL NO. 136 OF 2025

Sambhaji Ramchandra Kolekar

.....Appellant

Vs.

Dasharath Tukaram Kolekar and ors

.....Respondents

Mr. Kannad Aphale for the appellant

CORAM : GAURI GODSE, J.

DATE : 22nd APRIL 2025

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ORDER:

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

(I) In view of the plaintiffs' pleadings that Dadu and Parvati died issueless and defendant no. 2 is the son of Dashrath and not the son of Dadu, whether it was necessary to frame a specific issue as to whether defendant no. 2 was the son of Dadu as claimed by defendant nos. 1 and 2.

(II) In the event, the plaintiffs prove that Dadu and Parvati died issueless, whether the plaintiffs would be entitled to a declaration that they have half share in the suit property?

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

3. Call for record and proceedings. Printing is dispensed with.

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

INTERIM APPLICATION NO. 1804 OF 2025:

5. Learned counsel for the applicant seeks leave to withdraw this application with liberty to file an appropriate application seeking an order of temporary injunction.

6. Leave granted with liberty as prayed. Interim application is disposed of as withdrawn with liberty as prayed.

[GAURI GODSE, J.]