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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
SECOND APPEAL NO. 613 OF 2020  
WITH  
INTERIM APPLICATION NO. 3046 OF 2022  
IN  
SECOND APPEAL NO. 613 OF 2020**

Ujwala Atmarak Jagtap ... Appellant/Applicant

vs.

Bhagirathi Krishna Nikam(Decd thr. Lrs)  
Rohini Dinesh Salunkhe and Ors ... Respondents

Mr. Prabhanjan Gujar for Appellant/Applicant.

Mr. Sharad Bhosale i/b. Mr. Dilip Bodake for Respondent Nos. 1(A)  
to 1(B).

**CORAM : GAURI GODSE, J.**

**DATED : 8<sup>th</sup> JANUARY 2025**

**ORDER:**

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

I) When the sale deed at Exhibit 49, in favour of the plaintiff was never disputed or challenged by the defendants, whether the suit for exchange of the land could have been dismissed by the first appellate court?

II) Inspite of recording positive findings on point no.1,

whether the findings recorded by the first appellate court to reverse the findings of the trial court for passing the decree in favour of the plaintiff would be sustainable?

III) Whether the first appellate court erred in not correctly appreciating evidence on record, in as much as the defendants have failed to step into the witness box to rebut the evidence of the plaintiff in support of the plaintiff's contention that she was entitled to exchange of the area/land, in lieu of the area/land that was the subject matter of the sale deed, that stood acquired?

2. Learned advocate for respondent no. 1(A) to 1(B), waives notice.
3. In addition to Court notice, learned advocate for the appellant to serve the remaining respondents, by private notice and file affidavit of service.
4. Call for records and proceedings.
5. Printing is dispensed with.
6. Learned advocate for the appellant shall file private paper-book within a period of one year from today.

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7. By this application, the plaintiff prays for injunction restraining the defendants from creating any third party rights in respect of the suit land.

8. The appeal is admitted on the plaintiff's entitlement to exchange of land in terms of undisputed sale deed in favour of the plaintiff. If during the pendency of the second appeal, any third party rights are created, the same would prejudice the plaintiff's rights and would result in a multiplicity of proceedings. Hence, during the pendency of the second appeal, there will be interim relief in terms of prayer clause (b),

9. Interim Application is disposed of in above terms.

**(GAURI GODSE, J.)**