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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
SECOND APPEAL NO. 318 of 2015  
WITH  
CIVIL APPLICATION NO. 714 OF 2015**

Tukaram Kondi Sawant ... Appellant/Applicant  
since deceased through LR

Vs.

Shankar Dhondi Sawant since ... Respondents  
deceased through LRs and Others.

Mr. Lahu S. Gaikwad for the Appellant/Applicant.

**CORAM : GAURI GODSE, J.**

**DATE : 11<sup>th</sup> FEBRUARY 2025**

**ORDER :**

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

(i) Whether dismissal of the Regular Civil Suit No. 436 of 1995 filed for simplicitor injunction against defendant no. 1 and two other defendants could have been a ground to dismiss the present suit for possession filed on the ground of title ?

(ii) Whether the documents relied upon by the plaintiff in the form of revenue record and adoption deed executed by the

original owner Banubai is incorrectly appreciated by both the courts in recording findings on plaintiff's claim of ownership ?

(iii) Whether the documents produced on record by the plaintiff in the form of revenue record and adoption deed would be sufficient to hold the plaintiff as owner of the suit property ?

(iv) Whether the claim of adverse possession by defendant no. 1 in the Regular Civil Suit No. 436 of 1995 would amount to inconsistent stand by defendant no. 1, which would indicate that the plaintiff was owner of the suit property and respondents were not entitled to retain possession of the suit property ?

(v) Whether the defendants were entitled to retain possession in the absence of any right created in their favour either by the original owner Banubai or the present plaintiff ?

2. In addition to court notice, learned Advocate for the appellant 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 appellant shall file private paper book within one year from today.

**Civil Application No. 714 of 2015**

6. This application is for stay to the execution of the impugned judgments and decrees. The plaintiff's suit for possession is dismissed and his appeal is also dismissed. Hence, there is no question of any stay to the execution of the impugned judgments and decrees.

7. The applicant has also prayed for an order of injunction restraining the respondents from obstructing plaintiff's possession over the suit property. The plaintiff's suit is for possession of the suit property from the defendants. Hence, there is no question of granting any injunction protecting plaintiff's possession.

8. The Application is therefore dismissed.

9. Appellant is at liberty to file appropriate application for appropriate interim relief.

**[GAURI GODSE, J.]**