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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 654 OF 2015
WITH
CIVIL APPLICATION (ST) NO. 27160 OF 2018
WITH
CIVIL APPLICATION NO. 1390 OF 2015**

Anusaya Appaso Mali (Deceased) ... Appellants
through LRS

Vs.

Jotiba Shankar Karande and Others ... Respondents

Mr. Rahul Kulkarni for the Appellants.

Mr. Sumedh Modak h/f. Mr. Vijay Killedar for Respondent No. 1.

Mr. Manoj Patil for Respondent Nos. 4 to 6.

CORAM : GAURI GODSE, J.

DATE : 12th FEBRUARY 2025

ORDER :

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

(i) Whether the first appellate court erred in not considering the incorrect determination of shares made by the trial court ?

(ii) Whether the plaintiff would be entitled to equal share in the suit property alongwith the other co-sharers ?

(iii) Whether the plaintiff would be entitled to a declaration regarding the sale deed executed in favour of defendant nos. 2 and 4 to 6 on the ground that the sale was not a valid sale and it was without any legal necessity ?

(iv) Whether the sale deed in favour of defendant nos. 2 and 4 to 6 can be accepted as a valid sale deed in the absence of any findings recorded on legal necessity for executing the sale deed ?

2. Copy of Judgment passed by the first appellate court is taken on record. Learned counsel for the appellants is at liberty to take necessary steps as regards deceased respondent no.1. Issue of abatement, if any, against deceased respondent no. 1 is kept open.

3. Learned Advocate for the appellants shall carry out amendment in the second appeal to annex copy of the judgment of first appellate court.

4. Learned Advocate for the respondent nos. 1 and 4 to 6 waives notice for respondents.

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

6. Call for record and proceedings.
7. Printing is dispensed with.
8. Learned Advocate for the appellants shall file private paper book within one year from today.
9. Issue regarding the effect of dismissal of the appeal against any of the respondents is kept open.

Civil Application No. 1390 of 2015

10. Learned counsel for the applicant seeks leave to withdraw the civil application with liberty to file appropriate application.
11. Civil Application is disposed of as withdrawn with liberty as prayed.

[GAURI GODSE, J.]