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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 5 OF 2025**

Uttam Dnyanu More

.....Appellant

Vs.

Nivrutti Nana Gavale Since
Deceased Through Legal Heirs

.....Respondents

Mr. Kuldeep Nikam for the appellant

CORAM : GAURI GODSE, J.

DATE : 29th JANUARY 2025

ORDER:

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

(I) When the registered sale deed in favour of plaintiff's predecessor-in-title was produced on record, whether the plaintiff's claim of being in possession based on the registered sale deed coupled with an unregistered document dated 15th November 1965 could have been accepted as sufficient evidence to prove the plaintiff's claim of possession on the suit property based on title?

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(II) When both the sale deeds dated 31st May 1965 and 15th November 1965 were more than 30 years old, whether the execution of the same and the contents therein could have been accepted as proved in view of Section 90 of the Indian Evidence Act, 1872?

(III) Whether the plaintiff not being made available for cross-examination, could have been a ground to disbelieve the plaintiff's claim of possession in as much as the plaintiff's claim was based on title and the contents of the documents?

(IV) Whether both the Courts erred in not properly appreciating the admission given by defendant no. 1 in cross-examination that the plaintiff had constructed the house on the suit property, in as much as the said admission would indicate that the plaintiff is in possession of 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.

[GAURI GODSE, J.]