

Iresh

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 32 OF 2025
WITH
INTERIM APPLICATION NO. 663 OF 2025
IN
SECOND APPEAL NO. 32 OF 2025**

Vitthal Shankar Kamble
Deceased Thr. LRs

.....Appellants

Vs.

Balu Manohar Surwase and ors

.....Respondents

Mr. Shashank C. Mangle a/w Mr. Atharv A. Gidaye a/w Mr. Tanmay M.
Shembavanekar i/b Mr. Hamid D. Mulla for the appellants
Mr. Onkar Mane for respondent nos. 1 to 3

CORAM : GAURI GODSE, J.

DATE : 7th MARCH 2025

ORDER:

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

(I) In view of the plaintiff's pleadings in paragraph 2A of the plaint and the prayers for challenging the sale deed on the ground of fraud, whether the plaintiff's suit could have been dismissed only by relying upon the plaintiff's alternate pleadings that consideration amount was not received by him?

2. Learned advocate appearing for respondent nos. 1 to 3 waives notice.
3. In addition to Court notice, learned advocate for the appellants shall serve the remaining respondent by private notice and file affidavit of service.
4. Call for record and proceedings. Printing is dispensed with.
5. Learned advocate for the appellant/s shall file private paper-book within a period of one year.

INTERIM APPLICATION NO. 663 OF 2025:

6. Rule on interim relief in terms of prayer clause (b) is made returnable on 18th June 2025.
7. In addition to Court notice, learned advocate for the applicants shall serve the remaining respondent by private notice and file affidavit of service before the next date.
8. During the pendency of the application, there will be ad-interim relief in terms of prayer clause (b).

[GAURI GODSE, J.]