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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 68 OF 2025
WITH
INTERIM APPLICATION NO. 1072 OF 2025**

Dagdu Dattua Arade ... Appellant/Applicant

Vs.

Dinkar Dhondi Arade ... Respondent

Mr. Chetan Patil a/w. Mr. Vishwesh Gadage and Mr. Bhushan
Jadhav i/b. Mr. Mandar Bagkar for the Appellant/Applicant.
Mr. Abhijit Adagule a/w. Ms. Ketaki Patil for the Respondent.

CORAM : GAURI GODSE, J.

DATE : 4th APRIL 2025

ORDER :

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

(i) When the declaration of title is concurrently granted in favour of the plaintiff in respect of the suit property as described in the plaint, whether the decree of injunction could have been refused on the ground of pendency of the proceeding under Section 138 of the Maharashtra Land Revenue Code, 1966 before the survey officers ?

(ii) When the cause of action to file the suit is order passed under Sub-Section (3) of Section 138 and the suit is filed for declaration of title as permitted under Sub-Section (4) of Section 138 of MLRC, whether both the courts erred in refusing to grant injunction on the ground that the appeal before the survey officers was still pending ?

3. Learned Advocate for the respondent waives notice.
4. Call for record and proceedings.
5. Printing is dispensed with.
6. Learned Advocate for the appellant shall file private paper book within one year from today.

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7. Rule on interim relief in terms of prayer clause (a) is made returnable on 8th July 2025.
8. Learned Advocate for the respondent waives notice.
9. During the pendency of application there will be ad-interim relief in terms of prayer clause (a).

[GAURI GODSE, J.]