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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 867 OF 2016
WITH
INTERIM APPLICATION NO. 1711 OF 2016**

Gurudatta Bhimrao Gaikwad ... Appellant/Applicant
Vs.
Swapnil Ramesh Gaikwad and Another ... Respondents

Mr.M. A. Choudhari a/w. Mr. Ranveer Choudhari for the Appellant.

CORAM : GAURI GODSE, J.

DATE : 7th JANUARY 2025

ORDER :

1. Heard learned counsel for the appellant. This Second Appeal is admitted on the following substantial questions of law :

(i) In view of the undisputed sale deed at Exhibit 39 in favour of the plaintiff, whether the findings recorded by the first appellate court to reverse trial court's finding on issue no. 1 would be sustainable ?

(ii) Whether the defendants' claim of being in possession through the erstwhile owner can be accepted as a lawful

possession permitting them to retain the possession of the suit property, in as much as the sale deed in favour of the plaintiff is not challenged by the defendants ?

(iii) Whether the reasons recorded by the first appellate court on the suit being bad for non-joinder of the erstwhile owner would be sustainable, in as much as no reliefs are claimed by the plaintiff against the erstwhile owner and the suit is filed for possession based on the plaintiff's title in view of the sale deed executed by the erstwhile owner in favour of the plaintiff ?

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

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6. Rule on interim relief in terms of prayer clause (a) is made returnable on 18th March 2025.

7. In addition to court notice, learned Advocate for the applicants to serve the respondents by private service and file service affidavit before the next date.
8. Till next date there will be ad-interim relief in terms of prayer clause (a).

[GAURI GODSE, J.]