

rrpillai

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 729 OF 2024**

Sarita Subhash Kurade ... Appellant

Vs.

Ishwar Laxman Kurade since ... Respondents
deceased through his heirs and
legal representatives

Mr. Pradeep Gole a/w. Mr. Suraj Shejwal for the Appellant.

CORAM : GAURI GODSE, J.

DATE : 21st JANUARY 2025

ORDER :

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

(i) When execution of the agreement and payment of part consideration of Rs.75,000/- was proved, whether the reasons recorded by both the courts on readiness and willingness of the plaintiff would be sustainable, in as much as the plaintiff has examined PW-3 to support her pleadings regarding payment of balance consideration amount in two installments?

(ii) Considering the relations between the parties whether both the courts erred in not correctly appreciating the

evidence adduced by the plaintiff to support her contentions regarding payment of balance consideration amount in two installments ?

(iii) Whether the first appellate court erred in not considering the plaintiff's conduct of making payment towards stamp duty as per the order passed for impounding the documents and depositing the balance consideration pending first appeal to support her readiness and willingness to perform her part of the contract ?

(iv) Whether the findings recorded by both the courts on readiness and willingness of the plaintiff would amount to incorrect appreciation of the evidence on record ?

(v) Whether handing over possession of the suit property to the plaintiff pursuant to the agreement for sale would support the plaintiff's contention about her readiness and willingness and payments made in installments to defendant no. 1 who is her father-in-law ?

2. In addition to the court notice, learned Advocate for the appellant shall 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.
6. Learned counsel for the appellant on instructions submits that considering the nature of the dispute and the relations between the parties, she would be agreeable to explore possibility of an amicable settlement.

[GAURI GODSE, J.]