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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 2062 OF 2025
IN
SECOND APPEAL NO. 28 OF 2016**

Jagdish Harihar Shetty ... Applicant

vs.

Anand Govind Karande and Smt Bakula ... Respondents
Anand Karande since deceased through Lrs

Mr. Uday Warunjikar, Mr. Prakash Kadam, Mr. Suresh Chatule for
Applicant.

CORAM : GAURI GODSE, J.

DATED : 1st APRIL 2025

ORDER:

1. This application is for restoration of the second appeal by recalling the order dated 25th January 2024. Since, the second appeal was dismissed at the stage of admission, I called upon the learned counsel for the applicant to point out whether the second appeal raises a question of law.

2. Learned counsel for the applicant submits that by registered sale deed, which was produced at Exhibit 83 in the trial court, the developer who had constructed the second floor has transferred the

flat in favour of the applicant. He submits that the entire consideration amount was paid and the applicant was put in possession of flat no. 203. He submits that the first appellate court erred in not correctly appreciating the rights created in favour of the applicant based on the registered document produced at Exhibit 83. He submits that in the absence of adding the developer who had constructed the property, the first appellate court erred in granting decree for possession by ignoring the rights in favour of the applicant based on the document at Exhibit 83, after accepting the entire consideration amount.

3. Learned counsel for the appellant submits that the second appeal also raises substantial questions of law on the ground that the plaintiff failed to describe the exact boundaries of the suit flat when there were four flats constructed on the second floor.

4. In view of the aforesaid, issue notice to the respondents, returnable on 13th June 2025.

5. In addition to the court notice, learned advocate for the applicant to serve the respondents, by private notice and file affidavit of service before the next date.

6. If any possession warrant is issued for execution of the decree impugned in the second appeal, the same shall not be

executed till the next date.

7. It is clarified that if copies are not supplied within two weeks for issuing court notice, the interim protection granted by this court shall stand vacated.

(GAURI GODSE, J.)