

Iresh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**APPEAL FROM ORDER NO. 510 OF 2024
WITH
INTERIM APPLICATION NO. 15128 OF 2024
IN
APPEAL FROM ORDER NO. 510 OF 2024**

Bhalchandra Sadashiv Sawant
(Deceased) Thr. LRs and anr

.....Appellants

Vs.

Purnanad Gopal Sawant and ors

.....Respondents

Mr. G. H. Keluskar Advocate for the Appellants

CORAM : GAURI GODSE, J.

DATE : 17th JANUARY 2025

ORDER:

1. Heard learned counsel for the appellants. The appeal from order raises following substantial questions of law:

(I) Whether the first Appellate Court was right in remanding the suit for deciding it afresh without framing any issues required to be decided by the trial Court?

(II) Whether it was necessary for the first Appellate Court to remand the matter with specific directions on deciding the issue which

according to the first Appellate Court were not decided by the trial Court?

(III) Whether the impugned judgment and order for remand would be sustainable in the absence of any reasons recorded on the issues required to be framed and decided by the trial Court?

(IV) Whether the order of remand passed by the first Appellate Court would satisfy the parameters required to be decided as provided under Rule 23A of Order XLI of Code of Civil Procedure, 1908 read with Rule 24 and 25 of Order XLI of Code of Civil Procedure, 1908.

2. Issue notice to respondents for final disposal of appeal at admission stage on the aforesaid questions of law.

3. Notice is made returnable on 28th March 2025.

4. In addition to Court notice, learned advocate for the appellants shall serve the respondents by private notice and file affidavit of service before the next date.

INTERIM APPLICATION NO. 15128 OF 2024:

5. Rule on interim relief is made returnable on 28th March 2025.

6. In addition to Court notice, learned advocate for the applicants shall serve the respondents by private notice and file affidavit of

service before the next date.

7. Till next date, there will be ad-interim relief in terms of prayer clause (a).

[GAURI GODSE, J.]