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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 296 OF 2025

WITH

INTERIM APPLICATION NO. 7130 OF 2025

IN

SECOND APPEAL NO. 296 OF 2025

Raghunath Dattatraya Patil

.....Appellant

Vs.

Meena Prakash Shelar Deceased
through LRs

.....Respondent

Mr. Manoj M. Sable a/w Mr. Shantanu Nakashe for the appellant

CORAM : GAURI GODSE, J.

DATE : 15th APRIL 2025

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ORDER:

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

(I) Whether the first Appellate Court erred in framing and deciding the issue of the plaintiff's prayer for preferential right as barred by limitation for the first time in appeal, without giving an opportunity to lead evidence?

(II) Whether the first Appellate Court erred in holding that the prayer for preferential right is time barred, inspite of holding that the amendment to add the prayer was tenable?

(III) Whether the first Appellate court in paragraph no. 28 of judgment dated 14.06.2023 wrongly held question in the negative that the plaintiff is not entitled for the relief of possession of the suit property from defendant no. 1 and 2, although he has preferential right over that suit property?

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

3. Call for record and proceedings. Printing is dispensed with.

4. Learned advocate for the appellant shall file private paper-book within a period of one year.

INTERIM APPLICATION NO. 7130 OF 2025:

5. Rule on interim relief in terms of prayer clause (a) is made returnable on 30th June 2025.

6. In addition to Court notice, learned advocate for the applicant

shall serve the respondents by private notice and file affidavit of service before the next date.

7. During the pendency of the application, there will be ad-interim relief in terms of prayer clause (b).

8. It is clarified that if copies for service of Court notice are not supplied, ad-interim protection will stand vacated.

[GAURI GODSE, J.]