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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 62 OF 2025
WITH
INTERIM APPLICATION NO. 1032 OF 2025
IN
SECOND APPEAL NO. 62 OF 2025**

Aniket Mahendra MandhareAppellant

Vs.

Sukhdev Dattatray WajeRespondent

Mr. Jaydeep Deo i/b Mr. Onkar Gawade for the appellants

CORAM : GAURI GODSE, J.

DATE : 28th JANUARY 2025

ORDER:

1. Heard learned counsel for the appellant. The second appeal raises the following substantial questions of law:

(i) Whether both the Courts erred in not considering the cause of action pleaded by the plaintiff which was common for the prayer of specific performance and alternative relief of refund of earnest money and compensation?

(II) Whether both the Courts erred in rejecting the plaint on the point

of limitation by ignoring the cause of action and the alternative prayers made by the plaintiff?

(III) Whether in view of the legal principles settled by the Hon'ble Apex Court in the case of ***Sejal Glass Limited Vs. Navilan Merchants Private Limited***¹, the reasons recorded by both the Courts to reject the plaint on the ground of limitation would be sustainable in law?

(IV) Whether the first Appellate Court ought to have considered remanding the suit to the trial Court for deciding the suit on merits, in view of the specific cause of action and the alternative prayers made by the plaintiff?

2. Office is directed to issue notice for final disposal of the second appeal at admission stage on the aforesaid questions of law.

3. Notice is made returnable on 25th March 2025.

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

[GAURI GODSE, J.]

¹ (2018) 11 Supreme Court Cases 780