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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 158 OF 2025
WITH
INTERIM APPLICATION NO. 1975 OF 2025**

Chaya Dinkar Patil and Others ... Appellants/Applicants
Vs.

Mangal Dinkar Patil and Another ... Respondents

Mr. Nikhil Pawar for the Appellants/Applicants.

CORAM : GAURI GODSE, J.

DATE : 21st FEBRUARY 2025

ORDER :

1. Heard learned counsel for the appellants. Learned counsel for the appellants submits that the second appeal preferred by the defendants is restricted only to suit property described at plaint paragraph 1(a)(6) and 1(b).

2. The second appeal raises the following substantial questions of law :

(i) In the absence of any cross appeal or cross objection filed by the plaintiffs, whether the first appellate court's decree modifying the trial court's decree with regard to suit property at plaint paragraph 1(a)(6) and 1(b) would be sustainable ?

(ii) Since the defendants preferred first appeal only to the extent of the suit property described at plaint paragraph

1(a)(6) and 1(b), whether the findings recorded by the first appellate court to modify the trial court's decree with respect to all the suit properties would be sustainable ?

(iii) Whether the first appellate court erred in reversing the trial court's findings on the defendants' title based on a will executed by Dinkar in their favour in respect of property described at plaint paragraph 1(a)(6) and 1(b) ?

3. Issue notice for final disposal of the second appeal at the admission stage on the aforesaid questions of law.

4. Notice is made returnable on 30th April 2025.

5. In addition to the court notice, learned Advocate for the appellants to serve the respondents by private service and file service affidavit before the next date. Hamdast permitted.

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

7. In addition to the court notice, learned Advocate for the applicants to serve the respondents by private service and file service affidavit before the next date. Hamdast permitted.

8. During the pendency of the application, the actual handing

over of possession as per the impugned decree shall remain stayed
qua the suit property described at plaint paragraph 1(a)(6) and 1(b).

[GAURI GODSE, J.]