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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 327 OF 2025

WITH

INTERIM APPLICATION NO. 7809 OF 2025

IN

SECOND APPEAL NO. 327 OF 2025

Appasaheb Pandurang Wankar
and anr

.....Appellants

Vs.

Maruti Baburao Mali and ors

.....Respondents

Mr. Nitin S. Dhumal for the appellants

CORAM : GAURI GODSE, J.

DATE : 9th MAY 2025

ORDER:

1. Mentioned out of turn by the learned counsel for the appellants. He seeks stay to the execution and operation of the impugned decree. He submits that by order dated 30th March 2007 passed by learned Tahsildar, the appellants were granted temporary right of way. The said order is challenged in the suit. The suit is dismissed, however, the First Appellate Court has decreed the suit and the order dated 30th March 2007 is declared null and void. By the impugned decree, the

defendants are permanently restrained from disturbing the plaintiff's possession over the suit property or create any new road from the suit property.

2. Learned counsel for the appellants on instructions submits that during the pendency of the suit, the order dated 30th March 2007 was operating and there was no interim relief granted in the suit. Thus, the order dated 30th March 2007 was operating during the pendency of the suit and the first appeal as stated by the learned counsel for the appellants. The statement made on behalf of the appellants is accepted.

3. In view of the statement made on behalf of the appellants, the declaration granted by the impugned order regarding order dated 30th March 2007 is stayed till the next date. It is clarified that the remaining decree granting injunction is not stayed by this Court.

4. List the second appeal on 20th June 2025.

[GAURI GODSE, J.]