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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 631 OF 2016
WITH
CIVIL APPLICATION NO. 1284 OF 2016
WITH
INTERIM APPLICATION NO. 10479 OF 2024**

Smt. Shahubai Valu Wagh (deceased ... Appellants/Applicants
through Legal Heir Shri Dilip Valu Wagh)

vs.

Shri Waman Sajan Phadol and Anr ... Respondents

Mr. Girish Agrawal a/w. Ms. Chitra Darekar for the Appellant.

Mr. Anil Kumar K. Patil a/w. Mr. Digvijay A. patil a/w. Mr. Laxmikant
Patil for the Respondent Nos. 2 to 4.

CORAM : GAURI GODSE, J.

DATED : 22nd APRIL 2026

ORDER:

SECOND APPEAL NO. 631 OF 2016

1. Learned counsel for the respondents submits that respondent no.1 has expired. Learned counsel for the appellants submits that respondent no.2 is already on record in a different capacity who is wife of deceased respondent no.1. He therefore submits that there would not be any question of abatement. He however, submits that he shall file appropriate application to bring on record any other heirs of deceased respondent no.1, if any.

2. Second Appeal is admitted on the following substantial questions of law:

I) Whether in view of the public notice dated 20th August 2002, the Power of Attorney in favour of defendant no.1, stood revoked and therefore the sale deed executed by defendant no.1 in favour of defendant no.2 would not transfer any title in the name of defendant no.2.

II) Whether in view of the legal principle settled by this court in case of ***Surekha Sakharam Washiwale Vs. Naobha Dhondiba Bharekar and Ors¹***, the sale deed executed by defendant no.1 in favour of defendant no.2 would not be a valid transfer?

III) In the absence of any specific performance of the agreement in favour of defendant no.1 and in view of the notice dated 15th February 2003, cancelling agreement in favour of defendant no.1, whether the defendants would be entitled to claim any right, title and interest of whatsoever nature in respect of the suit property?

3. Learned counsel for respondent nos. 2 to 4 waives notice.

4. Call for records and proceedings.

1 2015(1) Bom C.R 135

5. Printing is dispensed with.

6. Learned advocate for the appellants shall file private paper-book within a period of one year from today.

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7. Learned counsel for respondent no.2 seeks time to file affidavit-in-reply.

8. List the Civil Application for hearing on 17th June 2026.

9. The parties shall not create any third party rights in respect of the suit property till further orders.

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10. This application is for bringing on record the names of heirs and legal representatives of the appellant. In the facts and circumstances of the case, the delay if any is condoned, abatement if any, is set aside. The application is allowed in terms of prayer clause (c) and (d).

11. Amendment to be carried out within three weeks.

12. The application is allowed in the aforesaid terms.

(GAURI GODSE, J.)