

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.888 OF 2014
IN
FIRST APPEAL NO.1854 OF 2013**

Ms. Tanja Glusica & Ors. Applicants
(Respondents in FA)

Vs.

AIR India Charters Limited Respondent
(Appellant in FA)

Mr. Shashi Ashok, Advocate for the Applicants.

Mr. Firoz Bharucha alongwith Mr. H.D. Nanavati i/by Mulla & Mulla
for the Respondent.

Coram : Smt. R.P. SondurBaldota, J.

Date : 23rd March, 2015.

P.C.

1 This Civil Application is taken out by the respondents to the First Appeal No.1854 of 2013 for recalling the order dtd. 8th January, 2014.

2 The applicants are the respondents to the First Appeal, which was admitted on 8th January, 2014. On the same day, the Civil Application for interim reliefs was also disposed off by extending the ad-interim reliefs granted earlier till further orders.

3 The applicants contend in the application that the order of admission of the appeal is bad because no substantial question of law was framed at the time of admission of the First Appeal. The applicants place reliance upon decision of the Apex Court in Hardeep Kaur vs. Malkiat Kaur (Civil Appeal No.2870 of 2012 decided on 16th March, 2012) holding that the Second Appeal would be maintainable only on substantial question of law and that it is essential that the court formulate a substantial question of law for interfering with the judgment and decree of the lower appellate court. It is the contention of the applicant that the appeal though styled as the First Appeal, is in fact in the nature of the Second Appeal, since it challenges the order passed by the appellate authority.

4 The very order relied upon by the applicant notes that at the time of hearing of the appeal, the substantial questions of law can be formulated or reformulated at the time of final hearing of the appeal. The appeal was admitted in the presence of the applicant. The present Civil Application was taken out on 8th April, 2014. The prayer made in the Civil Application is for recall of the order and not for framing of the substantial questions of law. The Civil Application, is therefore not maintainable. It is open for both the applicants to raise substantial questions of law, at the time of final hearing of the appeal. The Civil Application is accordingly dismissed.

(Smt. R.P. SondurBaldota, J.)