

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

**SECOND APPEAL NO.888 OF 2016
WITH
CIVIL APPLICATION NO.1742 OF 2016
IN
SECOND APPEAL NO.888 OF 2016**

Shri.Shahaji Shivram Bhujbal ..Appellant
V/s.
Mr.Ramesh Manik Jadhav .. Respondent

Mr.P.S. Dani, Senior Advocate i/by Mr.Vivek Salunke
for the Appellant.

None present for the Respondent.

CORAM : R.D. DHANUKA, J.

DATE : 15th NOVEMBER, 2016.

P.C.

1. Heard the learned counsel for the applicant.

2. I have perused the impugned judgment and decree passed by the first Appellate Court on 2nd January 2015. Admittedly there was no amendment made by the defendant alleging his possession in respect of the suit property. The first Appellate Court however has recorded a finding about possession of the plaintiff merely on the basis that the plaintiff had purchased the suit property during

the pendency of the suit.

3. Issue notice before admission, returnable on 19th December 2016. In addition to the court notice, appellant is also permitted to serve the respondents by private notice i.e. by Registered A.D., Courier or Hand Delivery and shall file affidavit of service before the next date.

4. Till the next date, the judgment and decree dated 2nd January 2015 in so far as the decree in paragraph 3(ii) thereby directing the defendant to dismantle the construction over encroached portion of 8.43 sq. mtr. in the suit property is concerned is stayed.

(R.D. DHANUKA, J.)