

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

**CIVIL APPLICATION NO.1411 OF 2015
IN
SECOND APPEAL NO.954 OF 2015**

Anil @ Sahebrao Hanumant Khomane & Anr. .. Applicants
Vs.
Pralhad Baba Madane & Ors. .. Respondents

Mr.Dhananjay D. Rananaware for Applicants.
Mr.Milind Deshmukh for Respondent No.1.

CORAM : R.D. DHANUKA, J.
DATE : 20th September 2016

P.C.

. Heard learned counsel appearing for the parties.

2. Rule. Learned counsel appearing for the respondent no.1 waives service.

3. By a separate order passed by this Court in Second Appeal No.954 of 2015, this Court has already admitted the said second appeal on the substantial questions of law formulated by this Court.

4. It is the case of the applicants that the respondents had encroached upon the open space which is also forming part of the land of the applicants and the construction thereof.

5. Learned counsel appearing for the respondent no.1 however submits that the construction work commenced on the portion of open

space in Gat No.276 is already completed. This statement of the learned counsel for the respondent no.1 is disputed by the learned counsel for the applicants.

6. Considering the facts of this case and after hearing the learned counsel for the parties, I am of the view that the applicants have made out a case for grant of reliefs in terms of prayer clauses (b) and (c). Ordered accordingly. Civil application is disposed of in aforesaid terms. No order as to costs.

R.D. DHANUKA, J.