

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****CIVIL APPLICATION NO. 188 OF 2015****IN****SECOND APPEAL NO. 94 OF 2015****Dattu Punaji Patil,****since deceased by his legal heirs & Ors.****..... Applicants****VERSUS****Krishna Bhagoji Patil & Ors.****..... Respondents**

Mr.G.N.Salunkhe for the Applicants.

Mr.M.R.Suryawanshi for Respondent no.1.

Mr.M.G.Patil, A.G.P. for Respondent nos. 3 and 4.

CORAM : R.D. DHANUKA, J.**DATE : 29th AUGUST, 2016****P.C.**

Rule. Learned counsel appearing for respondent no.1 and learned A.G.P. for respondent nos. 3 and 4 waive service. Heard forthwith.

2. By a separate order passed by this court in Second Appeal No.94 of 2015, second appeal has been admitted on the substantial questions of law formulated in the said order.

3. I have heard the learned counsel for both the parties and have perused the record. In my prima facie view, the findings recorded by the learned trial judge as well as by the Appellate Court are perverse. Admittedly the TILR was not examined as witness to prove the map submitted by him.

4. For the reasons recorded in the civil application, civil application is made absolute in terms of prayer clause (b). No order as to costs.

[R.D. DHANUKA, J.]