

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1279 OF 2012
IN
FIRST APPEAL NO.574 OF 2012
WITH
FIRST APPEAL NO.574 OF 2012

Smt.Abhilasha Ajit Rawal

... Appellant

Vs.

Shri Krishnarao Mukund Chemburkar & Ors. ... Respondents

Mr.B.D. Joshi for the Appellant

Mr.Uday Warunjikar i/b M/s.Mahesh Menon & Co. for Respondent
No.2

Ms.M.R. Bhoir for Resp. Nos.5 & 6

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **NOVEMBER 21, 2017**

P.C.:

1. In this appeal, the key issue raised is as to whether the appellant is a gratuitous licensee or a trespasser? If it is held that he is a gratuitous licensee, it will be directly coming under the ratio laid down covered by the ratio laid down in **Prabhudas Damodar Kotecha & anr. vs. Smt.Manharbala Jeram Damodar & Ors.**¹

¹ 2007 (4) ALL MR 651

2. Mr.Joshi, the learned Counsel for the appellant, submitted that the respondents have filed execution proceedings before the City Civil Court and the appellant is likely to lose her possession of the suit premises. He submitted that this Court has not granted stay till today on the judgment and decree dated 3.2.2012 passed by the learned Judge of the City Civil Court in L.C. Suit NO.4020 of 2001. He submitted that the respondents had earlier made a statement that they would not take steps in execution proceedings. He prayed that the said judgment and order be stayed, in view of the progress in the execution proceedings.

3. Mr.Warunjikar, learned Counsel for the respondents/ decreeholders, submitted that the respondents are prosecuting the matter since 2001 and the matter is to be heard finally at the stage of admission. He has pointed out that earlier, this Court has passed such similar order.

4. The suit was filed for possession and is decreed. In appeal, the appellant has shown that she is likely to lose her possession if the decree is executed. Losing possession amounts to substantial loss and hence, as a sufficient cause is made out, the impugned

judgment and order dated 3.2.2012 is hereby stayed till the disposal of the appeal.

5. Civil Application is disposed of accordingly.
6. List the First Appeal for admission on 7.12.2017.

(MRIDULA BHATKAR, J.)