

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

**CIVIL APPLICAITON NO. 633 OF 2010
IN
SECOND APPEAL NO. 752 OF 1997**

Ramesh Digamber Mahdgut

...Applicant/Appellant

vs.

Shaikh Nasarudding Karim Shaikh,
since deceased through legal heirs
1a) Habib Nasiruddin Shaikh & Ors.

...Respondents

Mr.Amogh Karandikar I/b. A.S. Khandeparkar for Applicant.

Mr.G.H. Keluskar for Respondent No.1a.

Mr.A.S. Pandhire for Respondent Nos.2a and 2b.

CORAM : S.C. GUPTE, J.

13 JANUARY 2017

P.C. :

This civil application seeks permission to carry out repairs in the suit property. The suit property consists of Block Nos.1 to 3 of Grampanchayat House No.28 situated at village Masure, Taluka Malvan, District Sindhudurg. The Applicant / Appellant, who is the original Plaintiff, claims to be in possession of Block Nos.1 and 2, whereas Block No.3 is in possession of the original Respondent No.1, who has since deceased and is represented in the present appeal through his legal representatives, who are arraigned as Respondent Nos.1(a) to 1(d). Learned Counsel for Respondent Nos.1(a) to 1(d) has no objection to the repairs being carried out in Block Nos.1 and 2 which are in possession of the Applicant, but has reservations

about repairs being carried out to Block No.3 of which his clients are in possession.

2 Learned Counsel for the Appellant submits that as far as Block No.3 is concerned, he is prepared to carry out the repairs at his own costs and without claiming any equity and that these repairs do not entail in any way dispossession of Respondent Nos.1(a) to 1(d). If that is so, the civil application can be allowed by permitting the Applicant – Appellant to carry out the repairs.

3 Accordingly, the civil application is allowed in terms of prayer clause (a). It is, however, clarified that so far as Block No.3, referred to in prayer clause (a) is concerned, the Applicant shall carry out the repairs at his own costs and without claiming any equity and also without disturbing the possession of Respondent Nos.1(a) and 1(d).

4 The civil application is disposed of accordingly.

(S.C. Gupta, J.)