

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

**SECOND APPEAL NO. 474 OF 2016
WITH
CIVIL APPLICALTION NO.795 OF 2016
IN
SECOND APPEAL NO. 474 OF 2016**

Godrej & Boyce Mfg. Co. Ltd. ... Appellant / Applicant
V/s.

Mr. Sudhir Madhav Yadav & ors. ... Respondents

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Dr. Veerendra Tulzapurkar, Senior Advocate i/b. Mr. Mandar Soman for the appellants.

Mr. K. S. Dewal with Mr. Roshan S. Tanna for respondent nos.1 to 3.

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CORAM : S. C. GUPTE, J.

DATE : 24 FEBRUARY, 2017.

P.C. :

. Heard the learned counsel for the parties.

2. The Second Appeal is admitted on the following substantial question of law;

“Whether the First Appellate Court was right in law in accepting the locus of the plaintiffs either as legal heirs of the original owners of the suit property, or the beneficiaries of the trust, which leased the suit property to the original defendants, without the plaintiffs offering any proof of their derivative title?.”

3. The appellant has already filed a compilation of papers and proceedings of the Courts below. Both parties agree that the appeal can be taken up for hearing expeditiously. The respondents waive service. The appeal to come up for hearing in the week commencing from 3rd April, 2017.

4. In the meantime, learned counsel for the appellant prays for relief in terms of prayer clause (a) of the Civil Application. Since the decree passed by the First Appellate Court requires the appellant to hand over vacant possession of the suit premises and this Court has admitted this Second Appeal on a substantial question of law, the appellant's possession needs to be protected during the pendency of the Second Appeal. Accordingly, the Judgment dated 27th February, 2015 passed by the Joint Civil Judge, Junior Division Thane, and the impugned Judgment and order dated 10th October, 2015 passed by the District Judge, Thane are stayed subject to the appellant paying a sum of Rs.50,000/- per month to the respondents during the pendency of the Second Appeal. The appellant shall also pay its proportionate share of 'property taxes' to the respondents on production by the latter of the concerned 'property tax bills'.

5. The Civil Application is, accordingly, disposed of.

(S. C. GUPTE, J.)