

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

**SECOND APPEAL NO.762 OF 2015
WITH
CIVIL APPLICATION NO.1639 OF 2015**

Batul w/o. Usman Gani	...	Appellant
Versus		
Madarasa Maftaul Ulum Trust And Others	...	Respondents
.....		
Mr. N.R. Bubna for the Appellant.		
Mr. A.A. Siddiqui for the Respondent.		
.....		

CORAM : S.C.GUPTE, J.

DATE : 14 MARCH 2017

P.C. :

. Heard learned Counsel for the parties.

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

Whether the Lower Appellate Court ought to have framed an issue of limitation and decided the same in favour of the Appellant (original Defendant No.1) in view of the fact that it is the case of the Respondents (original Plaintiffs) themselves that on 1 July 1985, i.e. on the date of death of original owner Kulsum, the Appellant's predecessor-in-title put lock on the suit property claiming the suit property under the last will and testament of Kulsum ?

3 The printing of paper book is dispensed with. The Appellant shall, however, file a private paper book consisting of papers and proceedings before the Courts below within 12 weeks from today.

4 Respondent Nos.1 to 6, who are contesting Respondents, waive service.

Civil Application No.1639 of 2015.

5 The Applicant/Appellant prays for stay of execution of the impugned judgment and decree passed by the Trial Court and confirmed by the impugned judgment and order passed by the lower Appellate Court. The impugned decree requires the Applicant/Appellant to hand over vacant and peaceful possession of the suit property to the Plaintiffs-Trust. Since the Second Appeal is admitted on a substantial question of law, the Applicant/Appellant's possession of the suit property needs to be protected. Accordingly, the civil application is allowed in terms of prayer clause -(a).

6 On the application of the contesting Respondents, hearing of the Second Appeal is expedited

(S.C. GUPTE, J.)