

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

**CIVIL APPLICATION NO.592 OF 2016
IN
CIVIL REVISION APPLICATION NO.62 TO 2009**

Uttar Pradesh Industrial Co.Op. Association Ltd. Applicant

versus

M/s. S.P. Gandhi & Sons

... Respondents

.....

- Ms.Smita Sawant i/b. Dave & Co., for the Applicant.
- Mr.Abhineet N. Pange, for the Respondent No.1.

CORAM : R.M.SAVANT, J.

DATE : 20th APRIL, 2017.

P.C. :

1. The Civil Application has been filed by the original Civil Revision Applicant i.e. Uttar Pradesh Industrial Co.Op. Association Ltd. for being permitted to carry out repairs which are more specifically mentioned in the additional affidavit of one Mata Prasad Srivastava. The nature of repairs and renovations to be carried out are mentioned in clause No.(i) and (vi) dated 03/04/2016. Since an apprehension was expressed on behalf of the Respondent that the Petitioner after carrying out the repairs may create third party rights which apprehension was based on brochure published by the original

Revision Applicant which is annexed to the affidavit in reply to the Respondent, on behalf of the Civil Revision Applicant affidavit in the nature of an undertaking has been filed. The said affidavit is dated 17/04/2017 and affirmed at Varanasi before the notary Nakehhed Singh having Registration No.4954. In the said affidavit in paragraph No.4 the applicant has undertaken that it shall not create third party rights in respect of the suit premises. The said undertaking is taken on record and accepted.

2. In so far as the works which are listed at clause Nos.1 to 7 of the said affidavit dated 03/04/2017, the learned counsel for the Respondent has expressed an apprehension that the installation of sliding windows should not prejudice the Respondent in so far as the landlord is concerned. Upon this, the learned counsel appearing for the applicants Ms.Smita Sawant states that the applicant would seek the NOC of the landlord for installation of the sliding windows and it is only upon obtaining NOC that the said work would be carried out. In so far as other works are concerned which are listed from clause Nos.1 to 6, the learned counsel has no objection to said works being carried out. The Civil Application is accordingly allowed. The applicants are permitted to carry out the work listed at clause Nos.1

to 6 except the installation of sliding windows, which would be contingent upon the landlord granting permission. The undertaking is taken on record and marked 'X' for identification.

3. Civil Application is accordingly disposed of.

(R.M.SAVANT, J.)