

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

**CIVIL APPLICATION NO.1391 OF 2016
IN
SECOND APPEAL NO.49 OF 2014**

Smt. Vimal Nathu Malekar ... Applicant/Appellant
Versus

Shri Harishchandra Sitaram Vartak
And Others ... Respondents

Mr. Niranjana Mogre for the Applicant/Appellant.
Mr. Shakeeb Shaikh i/b S.B. Legal for Respondent Nos. 1 to 4.

CORAM : S.C. GUPTE, J.

DATE : 3 MARCH 2017

P.C. :

. Heard learned Counsel for the parties.

2 The present second appeal is admitted on a substantial question of law. The civil application seeks permission to carry out repairs in the suit premises in order to restore the same and make it habitable, with the permission of the local Grampanchayat. It is submitted Respondent Nos.1 to 4 are likely to obstruct the Applicant/Appellant, who is an old lady living alone in the suit premises, and that she needs police protection for carrying out the repairs. Learned Counsel for Respondent Nos.1 to 4 states that his clients have no objection to repairs being carried out by the Applicant/Appellant, provided the repairs are merely tenantable repairs to make the suit premises habitable. Learned Counsel for the

Applicant/Appellant submits that presently, what the Appellant/Applicant intends to do is to merely reconstruct the walls of the suit premises, which have collapsed and that these and other repairs which are proposed, are merely the tenantable repairs with a view to make the suit premises habitable. Learned Counsel for the Applicant/Appellant further states that his clients shall not neither claim any equity for carrying out the repairs nor create any third party right in respect of the suit premises. Learned Counsel for Respondent Nos.1 to 4 states that his clients shall not cause any obstruction in carrying out these repairs. The statements are accepted.

3 The civil application is, accordingly, disposed of by permitting the Applicant/Appellant to carry out tenantable repairs to the suit premises. In case any permission of Grampanchayat is necessary for the repairs in accordance with law, the same shall be obtained by the Applicant/Appellant. Grampanchayat-Respondent No.5 will not refuse or withhold such permission unreasonably.

(S.C. GUPTE, J.)