

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

**SECOND APPEAL NO.704 OF 2014
WITH
CIVIL APPLICATION NO.1645 OF 2014**

Mahatma Laxmanji Arya Education
Public Charitable Trust, Panchgani ... Appellant/Applicant
Versus
The State of Maharashtra And Others ... Respondents

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Mr. S.K. Shinde i/b Prashant Badole for the Appellant/Applicant.
Mr. Yogesh Dabke, AGP for Respondent Nos. 1 And 2.
Mr. Sumit Phatale i/b Y.M. Chaudhari for Respondent No.3.

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CORAM : S.C. GUPTE, J.

DATE : 23 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 was right in law in denying the benefit of deemed permission under Section 189(6) of the Maharashtra Municipal Councils, Nagar Panchayats & Townships Act, 1965 to the Appellant on the ground that the application for construction permission was not in the prescribed form ?”

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

4 The Respondents waive service.

CIVIL APPLICATION NO.1645 OF 2014.

5 Since the subject matter of controversy involves the construction carried out by the Applicant/Appellant (original Plaintiff) on the basis of deemed permission of Respondent No.3-Council under Section 189(6) of the Maharashtra Municipal Councils, Nagar Panchayats & Townships Act, 1965 and the Second Appeal is admitted on a substantial question of law in this behalf, the construction carried out by the Applicant/Appellant will have to be protected during the pendency of the second appeal. Accordingly, the civil application is allowed in terms of prayer clause-(a).

(S.C. GUPTE, J.)