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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****SECOND APPEAL NO. 171 OF 2018
WITH
CIVIL APPLICATION NO. 429 OF 2018
IN
SECOND APPEAL NO. 171 OF 2018**

Shri. Suresh Ramchandra Patil and othersAppellants

V/s.

Shri. Pundalik Savlaram Patil and othersRespondents

Mr. Sandesh Patil i/b Ms. Anusha P. Amin for the appellant
Mr. Pravartak Pathak for respondents

CORAM : NITIN W. SAMBRE, J.

DATE : FEBRUARY 13, 2020.

P.C.

Heard. Appeal warrants consideration on the following
question of law:

2] In view of admission given in the cross-examination by the
respondent-plaintiff that the appellant is not in possession of the
suit property, whether the Lower Appellate Court has committed an

error apparent on the face of record in decreeing the suit?

3] **Admit.**

4] Mr. Pathak waives service for respondents

5] Call for record and proceedings.

6] In view of admission given by respondent-plaintiff about appellant is not in a possession of the suit property, First Appellate Court in my opinion appears to have committed *prima facie* error.

7] In view thereof, there shall be stay to the execution of the Decree.

8] Civil Application stands disposed of.

[NITIN W. SAMBRE, J.]