

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

**SECOND APPEAL NO. 57 OF 2019
WITH
CIVIL APPLICATION NO. 50 OF 2019**

Naruddin Alibhay(since deceased) & ors. ..Appellants.

v/s.

Devram Laxman Godse (dead) through

Lrs. & ors. ..Respondents.

Mr. Y.S. Jahagirdar, Sr. Counsel i/b. Mr. Pradeep J. Thorat,
advocate for appellants.

Mr. Atul G. Damle, Sr. Counsel i/b. Mr. Sachin S. Gite,
advocate for respondent.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : JANUARY 17, 2020.

P. C. :

1 Learned Senior Advocate Mr. Jahagirdar has placed on record order dated 3rd October, 2019 passed in Second Appeal No. 729 of 2018, which is admitted by this Court (Coram: R.D. Dhanuka, J). It is demonstrated that not only the parties to the Second Appeals, but the suit property in both the second appeals are the same.

2 Second Appeal is admitted. Substantial questions of law as demonstrated by the appellants are as follows :

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(i) Whether possession of a tenant can become adverse to the landlord/owner merely due to demise of the Original Tenant?

(ii) Whether a suit filed for possession by the Appellants on the basis of title can be said to be barred merely because the Respondents are in permissive possession of the suit property for a period of more than 12 years ?

3 The appellants are permitted to file private paper book.

4 It is submitted that appellant No. 1 had expired during the pendency of the first appeal and his legal heirs are prosecuting the second appeal. It is prayed that in view of the fact that the appellant Nos. 3, 4, 5, 6 & 10 are senior citizens, hearing of the appeal be expedited. In view of this, hearing of the appeal is expedited.

5 Learned Sr. Counsel Shri Damle waives service for final hearing.

6 In view of the admission of the Second Appeal, Civil
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Application No. 50 of 2019 deserves to be allowed in terms of prayer clauses (a) and (b) and disposed of accordingly.

[SMT. SADHANA S. JADHAV, J.]