

Sushma

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

SECOND APPEAL NO. 57 OF 2021
WITH
X-OBJECTION NO. 1 OF 2021
WITH
CIVIL APPLICATION NO. 1496 OF 2021

Anjanabai Morchand Gujar and others ... Appellants

Versus

Shevantabai Ramchandra Teli Died
LRs. Sunil Sudam Chaudhari and another ... Respondents

...
Mr. S.P. Shah – Advocate for Appellants
Mr. S.P. Brahme – Advocate for Respondent Nos. 1 and 2

....

CORAM : GAURI GODSE, J.
DATE : 27th February, 2023

PER COURT :

1. Heard.
2. Admit on the following substantial questions of law :
 - i. Whether the findings recorded by the first appellate Court on the ownership of the plaintiffs over the constructed house property is supported by any evidence on record, though, there was evidence produced on record by the appellants with respect to electricity connection and municipal assessment in the name of appellants as well as the document showing the property

being let out by the appellant ?

ii. Whether the plaintiffs were estopped from disputing the title of the appellants ?

iii. Whether the findings recorded by the first appellate Court on the appellants being in permissive possession of the suit property is contrary to the pleadings and evidence on record ?

3. Mr. Brahme, waives service for respondents.
4. Call for record and proceedings.
5. Printing is dispensed with.
6. The appellants to file private paper book containing judgments of both the Courts, first appeal memo, pleadings, notes of evidence and exhibited documents, within a period of one year from today.
7. Hamdust is granted for record and proceedings.

Civil Application No. 1496 of 2021

8. This application is filed for stay to the execution and operation of the impugned decree.
9. Second Appeal is already admitted. Hence, it will be necessary the stay to execution and operation of the decree for possession.
10. During the pendency of the Second Appeal, there will be interim stay in terms of prayer clause 'a' subject to the appellants not

creating any third interest in the suit property. Prayer clause 'a' reads thus :

“a. Pending hearing and final disposal of this Second Appeal, the Hon'ble High Court may be pleased to stay the effect, implementation and operation of the Judgment and Decree dated 11.03.2020 passed by the District Judge-5, Dhule in Regular Civil Appeal No. 121/2015.”

11. Civil Application is disposed of.

[GAURI GODSE, J.]