

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

**SECOND APPEAL NO.31 OF 2016  
WITH  
CIVIL APPLICATION NO.36 OF 2016**

Shri Bhaguji Sadashiv Jagtap  
And Others

... Appellants

Versus

Shri Namdeo Tukaram Jagtap  
And Others

... Respondents

.....

Mr. Girish Agrawal for the Appellants.

Mr. R.N. Gite for Respondent Nos.1 And 2.

.....

**CORAM : S.C. GUPTE, J.**

**DATE : 28 FEBRUARY 2017**

**P.C. :**

. Heard learned Counsel for the parties.

2 This second appeal is admitted on the following substantial question of law :

Whether the Courts below were right in law in holding that the survey carried out by the Taluka Inspector of Land Record (TILR) was not amenable to challenge before the Civil Court ?

3 The printing of paper book is dispensed with. The Appellants shall, however, file a private paper book consisting of papers and proceedings

before the Courts below within 12 weeks from today.

Civil Application No.36 of 2016

4 Learned Counsel for the Appellants prays for interim stay of the execution. There is an ad-interim order passed by the First Appellate Court in favour of the Appellants. Since the impugned judgment and decree requires the Appellants to hand over possession of the suit land and this Court has found *prima facie* merit in the second appeal and admitted the same on a substantial question of law, the suit property needs to be protected. Accordingly, the ad-interim stay granted by the First Appellate Court is continued during the pendency of the second appeal.

5 As a condition of the stay, the Appellants, however, shall not create any third party rights or part with possession of the suit property.

6 The civil application is disposed of accordingly.

7 On the application of the Respondents, hearing of the second appeal is expedited.

**(S.C. GUPTE, J.)**