

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

**CIVIL APPLICATION NO. 424 OF 2002
IN
SECOND APPEAL NO. 315 OF 2002**

Shri. Shivaji Dinkar Dhumal @ Dhor & Ors. ... Applicants.
V/s.
Shri. Shankar Tatyaba Dhumal & Ors. ... Respondents

Mr. Madhav Jamdar for the applicant.
Mr. Karan Thorat for the respondent nos. 2A to 2F.

**CORAM : K. K. TATED, J.
DATED : 23/10/2015.**

PC.:

. Heard learned Counsel for the parties.

2 This application is preferred by defendant nos. 2 and 3 for stay of operation and implementation of judgment and decree dated 07.11.2000 passed by 5th Additional District Judge, Pune in Civil Appeal No. 459 of 1989 directing defendant no.1 to execute the sale deed of the suit property in favour of plaintiffs.

3 For last 2-3 occasions, matter was adjourned at the request of learned counsel for the applicant as well as learned Counsel for the respondent to take instructions whether defendant no.1 executed sale deed in favour of plaintiffs or not as per decree passed by the Appellate Court dated 07.11.2000. Both the Counsel submits that they tried to contact their clients, but there is no response from them.

4 In the present proceeding, initially, the respondent nos. 1 and 2 plaintiffs filed the suit against the respondent no.3 defendant no.1 for specific performance of agreement for sale dated 27.01.1975. Thereafter, defendant no.1 executed agreement for sale dated 17.05.1980 in favour of defendant nos. 2 and 3. Hence, the plaintiff filed suit for specific performance of agreement dated 27.01.1975 and for cancellation of subsequent agreement dated 17.05.1980.

5 The Trial Court by decree dated 13.03.1989 rejected plaintiffs' prayer for specific performance of agreement dated 27.01.1975 and directed the defendant no.1 to pay sum of Rs.6000/-. Hence, the plaintiffs preferred the Civil Appeal No. 459 of 1989. That Appeal was allowed by the Appellate Court on 07.11.2000 holding that Sale deed executed by the defendant no.1 in favour of defendant nos. 2 and 3 on 17.05.1980 was illegal and not binding on the plaintiffs. The Appellate Court further directed defendant no.1 to execute the sale deed of the suit land in favour of the plaintiffs.

6 Being aggrieved by the said decree dated 07.11.2000 passed by the Appellate Court, the defendant nos. 2 and 3 preferred the present Second Appeal. The defendant nos. 2 and 3 preferred the present Civil Application in the month of March 2001. Same is pending since then. There is no order for stay of the Appellate Court's decree. The matter is coming on board after 13 years. Neither the applicants' Advocate, nor the respondent nos. 2A to 2F's Advocate is in a position to make statement whether defendant no.1 executed sale deed in favour of plaintiffs or not.

7 Considering these facts, I do not find any reason to entertain the present Civil Application.

8 Hence, following order.

- a) Civil Application stands rejected.
- b) No order as to costs.

(K.K.TATED, J.)