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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELATE JURISDICTION
CIVIL APPLICATION NO.2132 OF 2015 IN
FIRST APPEAL NO.737 OF 2015

Shyam Himmatrao Patil ...Applicant
vs.
Dr.Smita Sandeep Patil ...Respondent

Mr.Atul G. Damle, Senior Advocate i/b Mr.S.M.Sabrad
for the applicant in CAF 2132/2015
Mr.M.S.Karnik i/b Mr.N.V.Pawar for the applicant in
CAF 3192/2015 and for the respondent in CAF
2132/2015

CORAM : A.S.OKA, &
G.S.PATEL, JJ.
DATE : DECEMBER 9, 2015

P.C.:

1 Heard the learned counsel for the applicant and the learned counsel for the respondent. Civil application for stay is opposed by the learned counsel for the respondent. The learned counsel for the respondent pointed out that in fact the respondent who is the successful plaintiff has filed an application for appointment of the Court Receiver in respect of the suit premises with a direction to appoint the respondent as an agent of the Receiver.

2 By the impugned decree subject matter of challenge in the First Appeal, a suit for specific performance of the agreement for sale in respect of the portion admeasuring 700 sq ft out of the flat admeasuring 1600 sq ft has been decreed. For showing the readiness and willingness, the respondent-

plaintiff has deposited certain amount. Appeal is already admitted. Hence, the execution of the decree for specific performance will have to be stayed subject to suitable conditions.

3 As far as the prayer made by the respondent for appointment of the Court Receiver is concerned, the learned counsel for the respondent now states that the respondent is not pressing the said prayer at this stage.

4 Hence, we pass the following order:

- (I) Civil application No.2132 of 2015 is disposed of by directing that the operation and execution of the decree for specific performance shall stand stayed till the disposal of the appeal subject to condition of the applicant filing an undertaking in this Court stating that he will not part with the possession of the suit flat and will not create any third party rights in any manner in respect of the suit flat till the final disposal of the appeal;
- (II) Such undertaking shall be filed within a period of three weeks from today. If such undertaking is not filed within the stipulated time, the interim stay shall stand vacated without further reference to the Court;
- (III) Civil application No.3192 of 2013 is disposed of as not pressed.

(G.S.PATEL,J.)

(A.S.OKA,J.)