

CAAST.24863/2015(3)Production matter

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

**APPEAL FROM ORDER(ST) NO. 24862 OF 2015
WITH
CIVIL APPLICATION (ST) NO. 24863 OF 2015**

Hiten Patel ...Appellant

Vs.

Bharat Diamond Bourses ...Respondents

Mr. Kamallesh Tiwari for the Appellant

Mr. P.M. Bhagat for the Respondents

CORAM : MRS. ROSHAN DALVI, J.

DATED : 1ST OCTOBER, 2015

P.C. :

Rule. Returnable forthwith.

1. The appellant / plaintiff has been a defaulter of the defendant. The respondent / defendant has issued notice on 31st May, 2005 showing the amount payable. The appellant has not paid the amount. The appellant claims that in certain family arrangements the partnership deed was dissolved and he was allotted the suit premises. It is for him to find out from the defendant what are his liabilities and make payments so that he would be transferred rights in the suit premises. The appellant has made an application being Application No. 1118 / 4915 for transfer of rights. He claims that the reply of the respondent would go to the old address

which is not his address. That is not the reason to continue to be a defaulter and not make payment.

2. The learned Judge in the impugned order has considered how the appellant is defaulter. It is for him to change his position. Because he has been the defaulter public notice is given. Hence the responden has followed the due process for cancelling the application. The refusal of the ad-interim relief, therefore, cannot be faulted. The notice of motion is due for hearing.
3. The appeal is dismissed. The civil application is disposed off accordingly.

(ROSHAN DALVI, J.)

CERTIFICATE

**Certified to be true and correct copy of the original signed
Judgment /order.**