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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1847 OF 2015
IN
SECOND APPEAL NO.252 OF 2007

Shivnani N. Dharamdas & Chandan D. & Ors. ...Applicants
V/s.
.Ashok V. Hasija & Ors. ..Respondents

Mr.Sagar Batawe i/b Mr.Javed Hussain for the Applicants in the C.A.
Mr.R.N. Sanghavi for the Respondent Nos.1 to 3 / Original
Appellants.
Mr.Mahesh Rawool i/b Mr.Praful Shah for the Respondent Nos.4 to
4(c).

CORAM : R.D. DHANUKA, J.
DATE : 4TH DECEMBER, 2015.

P.C. :-

1. By this civil application the applicants have applied for stay of Regular Daskhast No.198 of 2003 pending on the file of Civil Judge, Junior Division, Pune. The civil application has been vehemently opposed by the original decree holder on the ground that the applicants herein have not filed any appeal against the order passed by the learned trial Judge as well as passed by the District Judge and thus no such relief can be granted in favour of the present applicants *inter-alia* praying for stay of the said Darkhast proceedings.
2. It is the grievance of the present applicants that though there was no decree passed against the present applicants, the

Commissioner has issued the notice to the applicants to comply with the decree passed by the learned trial Judge.

3. Learned counsel for the original decree holder states that though the decree was passed by the learned trial Judge on 23rd August, 1998, which has been upheld by the Appeal Court on 20th July, 2001 and though this Court has not granted stay of the decree insofar as it directs the defendant nos.1 and 2 by mandatory injunction to construct W.C., bathroom etc. in the suit property within two months from the order, those orders are is not complied with. He submits that the original decree holder has already filed Darkhast application before the Executing Court. He submits that no order of stay on the Darkhast application thus can be granted by this Court in this application filed by the applicants, who have not filed any second appeal. In my view there is merit in the submissions made by the original decree holder.

4. If according to the present applicants they are not liable to comply with the directions issued by the Commissioner, the said issue can be agitated by the applicants before the Executing Court. In my view this civil application for seeking stay of the Darkhast application is not maintainable and is accordingly dismissed. No order as to costs.

(R.D. DHANUKA, J.)