

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

SECOND APPEAL NO. 220 OF 2014

Dipak Dattatraya Bijjamwar Vs. Soma Ramu Rathod

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders
.....

Court's or Judge's Order

Shri S. S. Bhalerao Adv for appellant.
Shri V. N. Patre Adv for respondent.

CORAM: A. S. CHANDURKAR J.

DATED: 14 JANUARY, 2015.

Heard. **Admit** on the following substantial
question of law:

When the agreement dated 27.02.2008
by which possession was delivered to the
plaintiff was compulsorily registrable, whether
the same could be the basis of the decree for
specific performance in absence of its
registration?

Shri V. N. Patre, learned counsel waives notice for
respondents.

Civil Application (CAS) NO. 494 of 2014: Prayer is to
grant stay to the effect and operation of the decree for specific
performance.

It is not in dispute that the respondent no.1-

plaintiff is in possession of the suit property. It is however, submitted that the balance consideration has been deposited by respondent no.1 in the trial Court.

Considering the fact that second appeal has been admitted decree passed by the trial Court shall remain stayed during the pendency of the second appeal. However, respondent no. 1 is at liberty to withdraw the amount deposited by him in the trial Court without prejudice to his rights and contentions. Similarly, the respondent no.1 shall not alienate or create third party interest in the suit property. Civil Application is allowed and disposed of.

JUDGE

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