

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

FIRST APPEAL NO.19 OF 2014

(Bhagwan s/o Barsuji Chafle ..vs.. Madhukar s/o Chintaman Kotrunge and another)

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

Court's or Judge's orders

Shri D.C. Chahande, Advocate for the appellant,
Shri S.P. Dharmadhikari, Senior Advocate assisted by Shri
K.N. Shukul, Advocate for the respondents.

CORAM : Z.A. HAQ, J.

DATED : 12-1-2015

Heard Shri D.C. Chahande, the learned Advocate for the appellant and Shri S.P. Dharmadhikari, the learned Senior Advocate assisted by Shri K.N. Shukul, the learned Advocate for the respondents.

Admit.

Shri K.N. Shukul, the learned Advocate, waives service of notices on behalf of the respondents.

Civil Application (CAF) No.12 of 2014.

Shri D.C. Chahande, the learned Advocate for the appellant submits that the balance amount as directed by the trial Court was not deposited by the respondents within the stipulated time and an application was filed on which time is extended without giving notice to the appellant.

Considering the facts, in my view, the appellant is entitled for interim stay as per prayer clause (i) of the

application which reads as follows :

“(i) It is, therefore, humbly and respectfully prayed that this Hon'ble Court would be pleased to grant stay of the effect, execution, implementation and operation of the Judgment and Decree dated 15-03-2012, passed by the learned 2nd Joint Civil Judge, Sr.Dn., Nagpur in Special Civil Suit No.1234/2007, Madhukar and one other .vs. Bhagwan, till final disposal of this appeal in the interest of justice.”

However, the interim order is granted on condition that the appellant shall deposit the amount of Rs.4,00,000/- received by him from the respondents, till 15-5-2015 with the Registry of this Court. If the deposit is made within the stipulated time, the amount shall be invested in fixed deposit in a Nationalised Bank initially for a period of three years, to be renewed every year till the decision of the appeal.

If the amount is not deposited within the stipulated time, the interim order shall stand vacated.

Shri S.P. Dharmadhikari, the learned Senior Advocate submits that during the pendency of the civil suit, the appellant was restrained from creating third party right, title and interest in the suit property and parting with possession of the suit property.

During the pendency of the appeal, the appellant shall not create any third party right, title and interest in respect of the suit property and shall not part with the suit property.

The civil application is disposed in the above terms.

Civil Application (CAF) No.2833 of 2014.

The learned Advocates for the respective parties submit that the documents required by the appellant as stated in the application are already produced on record. In view of this, no orders are required.

The civil application is disposed.

Pursis Stamp No.13571 of 2014.

Seen.

No orders are required.

JUDGE