

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

FIRST APPEAL NO.13/2015

Ankur Rupchand Khandelwal

...Versus...

Datta Eknathrao Lele

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

Court's or Judge's orders

Shri S.S. Alaspurkar, Advocate for appellant

CORAM : Z.A. HAQ, J.

DATE : 24.02.2015

Heard Shri S.S. Alaspurkar, the learned Advocate for the appellant and Shri N.R. Saboo, the learned Advocate, who has put in appearance *suo motu*.

ADMIT.

Advocate Shri N.R. Saboo waives notice on behalf of the respondent.

The appellant shall file private paper-book till 15.09.2015.

CIVIL APPLICATION F. NO.5/2015

Apart from the fact that the application is not in consonance with the provisions of Order 41 Rule 5 of the Code of Civil Procedure, the appellant has not made out any *prima facie* case for grant of interim order.

Advocate Shri N.R. Saboo submits that the respondent – decree holder has deposited amount of Rs.7,54,000/- on 12.7.2014 within the stipulated time as per the decree. The appeal is filed by the appellant beyond the time which was granted to deposit the amount. The appellant has not been vigilant in moving this Court for appropriate interim orders.

Thus, I find no reason to grant interim order, however, the respondent, if put in possession in execution of the decree, will not create any third party interest in the suit property and will not change the nature of the suit property without seeking permission from this Court.

The civil application is dismissed.

JUDGE

Wadkar