

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

918 CIVIL APPLICATION NO. 12862 OF 2008
IN SA/929/2006

SHRIKANT DEVIDAS KADAM AND ANR
VERSUS
SATYANDRA SHIVRAM JINDAM AND ANR

...
Advocate for Applicants : Mobin H. Shaikh h/f. R N Dhorde, Sr.
Counsel

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CORAM : T.V. NALAWADE, J.
DATED : 4th August, 2016.

ORDER :

1. The application is filed for modification of the order made by this Court in Civil Application No. 10692/2006 filed in Second Appeal No. 929/2006. For granting stay to the execution of decree, which was for declaration and possession, this Court had imposed condition to deposit some amount, which was around Rs. 24,000/- per year. The order was made on 23.9.2008.

2. The learned counsel for present applicant - Shrikant submits that the sale deed was executed in favour of Shrikant and Sunita by original defendant Jaishree on 19.6.2000. Sunita and Shrikant are together and they have now requested to modify the order to reduce the amount which was directed to be deposited by this court. The submission is made that as

consideration is paid to Jaishree by the purchasers, it will be injustice to the purchasers that they are required to make payment in the Court. This submission is not at all acceptable. The suit was filed on 16.10.1999 and sale deed was executed on 19.6.2000. The agreement of sale was executed before the date of suit. The appellants have taken the risk and so, it is not open to the appellants to say that they will suffer. Modification is not possible. The appeal itself can be heard for final disposal. So, the application is rejected.

3. List the appeal for final hearing on 7.9.2016.

[T.V. NALAWADE, J.]

ssc/