

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.991 OF 2016
IN
FIRST APPEAL NO.1746 OF 2013**

**M/s. Power & Control Transformer
Industries Pvt. Ltd. : Applicant.**

In the matter between

**M/s. Shree Sai Industries
Through its Proprietress Mrs. Money Nair
and anr. : Appellants.**

**Versus
M/s. Power & Control Transformer
Industries Pvt. Ltd. and ors. : Respondents.**

**Mr. N V Walawalkar, Senior Advocate a/w Mr. S M Sabrad for the Applicant
– original Respondent Nos.1 to 5.
Mrs. Sunanda Kumbhar i/by S T Manek & Co. for the original Appellant.**

**CORAM : R. M. SAVANT, J.
DATE : 10th August 2016**

P.C.

1 The above Civil Application has been filed for the following relief:-

**“(a) The Respondent No.1 be granted leave to sale the
suit property to any third party as it may deem fit and
proper.”**

It is alternatively prayed as under :-

**“(b) In the alternative a peremptory date be fixed for
final hearing and disposal of the present Appeal.”**

2 In so far as prayer clause (a) of the above Civil Application is concerned, the said relief is sought on the basis that the application has been filed pursuant to the liberty granted by the Division Bench of this Court by order dated 06/04/2015. By the said order the ad-interim relief granted on 12/12/2013 was modified to the extent that it would be open for the 1st Respondent to seek leave of the Court in the event he desires to alienate, encumber, transfer or create third party rights or part with possession of the suit plots.

3 It has been averred in the above Civil Application that the Applicant has an offer for the plots of land which offer according to the learned Senior Counsel appearing on behalf of the Applicant is substantially higher than the consideration fixed under the Agreement.

4 In my view, it is not possible to accede to the request of the Applicant in so far as prayer clause (a) is concerned, as grant of prayer clause (a) would unnecessarily complicate the matter by involving a third party in the above proceedings. Hence prayer clause (a) of the above Civil Application is rejected.

5 In so far as prayer clause (b) of the above Civil Application is concerned, considering the suit being one for specific performance, the request

made prayer vide clause (b) can be said to be reasonable. The above Civil Application would have to be allowed in terms of prayer clause (b) and is accordingly allowed in terms of prayer clause (b). Since the paper books have already been filed, the above First Appeal to be shown for directions after the Diwali Vacation of the present year on 15/11/2016 on which date the above First Appeal can be fixed for final hearing. The above Civil Application is accordingly disposed of.

[R.M.SAVANT, J]