

Amk

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

**CIVIL APPLICATION NO. 1346 OF 2015
IN
FIRST APPEAL NO. 380 OF 2015**

Pascal Francis Dabrao .. Appellant/Applicant
Vs.
Mrs. Ursula Isdidorio Miranda & Ors. .. Respondents

Mr. Anthony J. Almeida for the Appellant/Applicant.
Mr. Dhananjayrao D. Rananaware for Respondent No.1.
Ms. Smita Sawant i/b Mr. S. P. Thorat for Respondent No.2.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.
DATE : 18th OCTOBER, 2016.

P. C. :

1. Heard learned counsel for the applicant and respondents.
2. This application is preferred by original defendant No.4 seeking stay to the execution and implementation of the Judgment and order dated 05.03.2015 passed by City Civil Court, Mumbai in S. C. Suit No. 5605 of 2004. The second relief, she has sought, is that pending the hearing and final disposal of the appeal, she may be put in possession of the suit flat by passing appropriate direction against respondent Nos.2 and
3. It is pertinent to note that the decree of possession is not passed in favour of the present applicant. Perusal of the Judgment and decree reveals that original defendant Nos.1 to 3 are directed to hand over

possession of the suit flat to the plaintiff within one month from the date of the order and the defendants including the present applicant were restrained from disturbing the possession of the plaintiff over the said suit flat. In such situation, there does not arise any question of granting the prayer sought by the present applicant/defendant No.4 that she be put in possession of the suit flat by passing appropriate direction against defendant Nos.2 to 3.

3. As regards seeking stay to the Judgment and decree, as the said decree is against the original defendant Nos.1 to 3 directing them to hand over possession of the said flat and as there is no reason to stay decree, this prayer also cannot be granted.

4. The civil application is, accordingly, disposed of as dismissed.

[DR. SHALINI PHANSALKAR-JOSHI, J.]