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

***SECOND APPEAL NO. 539 OF 2015
with
CIVIL APPLICATION NO. 1190 OF 2015***

Smt. Minakshi Champalalji
Lunkhad Chouhan & Anr.

... Appellants/Applicants.

V/s.

Mr. Jagannath Mathuramohan Adak & Ors. ... Respondents.

Mr. Swapnil Mhatre i/b. S.S. Kulkarni for the Appellants/Applicants.
Mr. Nitin Deshpande for the Respondents.

CORAM : N.M. Jamdar, J.

11 August, 2016.

Oral Order :-

On 25 April 2016, following order was passed in this
Second Appeal :-

“ The learned Counsel for the parties after arguing the matter for some time states that the appeal can be disposed on amicably agreed terms. The learned Counsel for the appellant submits that the amount paid by the respondent is repaid to the appellant, the appellant will withdraw the appeal and handover the vacant and peaceful

possession to the respondent. Considering the facts and circumstances, this stand is fair. The learned Counsel for the respondent on instruction says that if the vacant and peaceful possession of the flat is handed over, then, upon settling the accounts as per the proof of payment by the appellant to the Bank, the respondent is agreeable to this position.

2. To enable the parties to exchange the accounts stand over to 27 April 2016.”

Thereafter, on 3 May 2016 following order was passed :-

“ The matter has been argued and by order dated 25 April 2016, the consensus between the parties has been recorded. The learned Counsel for the Appellants tenders details of the accounts. The learned Counsel for the Respondents seeks time to go through the accounts.

2. Stand over to 14 June 2016 for 'Directions'. The statement of the Advocate for the Respondents to continue till the next date.”

On 14 June 2016, the matter was further adjourned for reconciling the accounts. Again it was adjourned on 18 July 2016.

2. The learned Counsel for the parties state that they will place their respective figures before the Court and the Court may decide the appropriate amount to be paid to the Appellants. According to the Appellants, the amount is around Rs.2,00,000/-

while it is the case of the Respondent that the amount is around Rs.1,50,000/-. Both the parties have placed their various accounts on record. Since the parties have principally agreed to resolve the dispute and for reconciliation of accounts at their level the matter is adjourned from April 2016, the amount will have to be determined by arriving at a general mid-way figure. Accordingly, since the parties have allowed fixation of amount to this Court, in my opinion, an amount of Rs.1,70,000/- would be an appropriate amount to be paid, pursuant to the understanding arrived at and recorded in the order dated 25 April 2016. In view of the consensus between the parties recorded on 25 April 2016, the learned Counsel for the Appellants has reiterated that if the amount is paid to the Appellants, the Appellants will withdraw the Appeal and hand over the vacant and peaceful possession. This undertaking is accepted.

4. Accordingly, by consent, the Second Appeal is disposed of by the following order :-

(a) The Respondents will deposit an amount of Rs.1,70,000/- in the Registry of this Court within three weeks from today, with intimation to the Appellants and their Advocate.

(b) After the amount is so deposited, the Appellants will hand over the vacant and peaceful possession of the

suit property to the Respondent within period of four weeks thereafter.

(c) The Appellants will file an usual undertaking that the Appellant will hand over the vacant and peaceful possession of the suit property within four weeks of the deposit of the amount and after the possession is handed over, will withdraw the amount which is deposited.

(d) The learned Civil Judge, Junior Division, Pune will accordingly depute an Officer of the Court to record panchnama of handing over of possession by the Appellants to the Respondents and the copies thereof be given to the parties. Upon tendering the said panchnama, the Appellants will be entitled to withdraw the amount deposited by the Respondents.

(f) If the possession is not handed over within the stipulated period inspite of depositing the amount, the Respondents will be free to execute the decree and the Appellants will forfeit the right to withdraw the amount.

5. It is expected that the parties, and also the learned Counsel for the parties assure that, once this exercise is completed,

the parties will ensure that all pending proceedings filed against each other of the subject matter will be compounded/withdrawn. This statement is accepted.

6. The Civil Application is disposed of accordingly.

(N.M. Jamdar, J.)