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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO.4064 OF 2000
IN
SECOND APPEAL NO.438 OF 2011**

Karbhari Dada Bankar & ors. ..APPLICANTS

VERSUS

Nagnath Gopinath Kadam,
Died, through L.Rs. & anr. ..RESPONDENTS

Mr A.C. Darandale, Advocate for applicants;
Mr R.V. Gore, Advocate for respondent no.1-B

CORAM : N.W. SAMBRE, J.

DATE : 19th July, 2017

ORAL ORDER

Heard.

2. The suit for specific performance was dismissed by the Trial Court, whereas the said judgment and decree was reversed in appeal by the lower appellate court.

3. This Court *prima facie* noticed that the suit property was not identified, particularly having regard to the dimensions mentioned in Exh.49 – agreement of sale and Exh.51 the order of N.A. Permission. Apart from above, the fact remains that the respondents-plaintiffs, at the time of agreement, have deposited Rs.5,000/- i.e. way back on 30th May, 1979 and have deposited balance amount after the suit came to be decreed by the appellate court.

4. If the decree is not stayed, in my opinion, there is likelihood of causing irreparable loss to the applicants. Hence, there shall be stay to execution of the impugned decree.

(2)

5. As the suit is of 1981, hearing of the appeal is expedited.

Civil Application stands disposed of accordingly.

(N.W. SAMBRE, J.)

amj