

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.615 OF 2017
IN
FIRST APPEAL NO.135 OF 2017

Smt.Veerbala Hemraj Bhanushali ... Applicant
Vs.
Suryakant Maganlal alias ... Respondent
Maganbhai Patel

Mr.V.V. Salunke for the Applicant / Appellant
Mr.P.J. Thorat for Respondent

CORAM: MRS.MRIDULA BHATKAR, J.
DATE: AUGUST 8, 2017

P.C.:

1. Upon urgent mentioning, taken on Production Board.
2. Learned Counsel for the applicant submitted that the Suit No.8774 of 1995 was dismissed by judgment and order dated 14.9.2016 by the learned Judge of the City Civil Court, Greater Mumbai. At the time of dismissal of the suit, the interim relief, which was granted pending the suit was extended for eight weeks. The learned Counsel for the applicant submitted that the period of 8 weeks got over in December, 2016 and thereafter, the said period was not extended by the High Court. He submitted that the suit was filed for specific performance in respect of the possession of the immovable property and therefore, the interim relief is to be continued post-facto.

3. The learned Counsel for the respondent/original defendant submits that at the time of dismissing the suit, the trial Court directed the defendant to deposit amount of Rs.5 lakhs within 90 days with interest @ 15% p.a. from the date of registration of the suit till realisation of the amount. The learned Counsel has further submitted that pursuant to the said order, the defendant has sent the amount by demand draft to the appellant / plaintiff, however, it was not accepted. He, therefore, submitted that by deciding this application for stay, he be allowed to deposit the said amount as directed by the trial Court in the High Court.

4. Heard submissions. In the circumstances, the following order is passed:

I) In view of the judgment and order dated 14.9.2016 in Suit No.8774 of 1995, the earlier order of injunction dated 17.7.1995 to continue till pendency of the appeal.

II) The defendant may comply with the order of depositing the amount in the High Court as directed by the trial Court.

5. Civil Application is disposed of accordingly.

(MRIDULA BHATKAR, J.)