

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

WRIT PETITION NO. 6687 OF 2015

Shri Balaram Dharma Thakur

..Petitioner.

Vs

M/s Prathmesh Construction
through its proprietor Shri I.Ajit
S. Singha and Ors.

.. Respondents

Mr. Dhananjayrao D. Rananaware, Advocate for Petitioner.

Mr. Vikram Chavan, Advocate for Respondent no.1.

**CORAM : R.G.KETKAR,J.
DATE : 08/02/2017**

PC:

1. Heard Mr.Dhanjayrao Rananaware, learned counsel for the petitioner and Mr. Vikram Chavan, learned counsel for the respondent.

2. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the Judgment and order dated 20.2.2015 passed by the learned trial Judge below Exhibit-61. By that order, the learned trial Judge rejected the application filed by defendant no.1 for issuing direction to the plaintiff to deposit Rs. 39,53,50,000/- in the trial Court within 15 days.

3. Mr. Rananaware submitted that the plaintiff has instituted suit for specific performance of contract. Pending this petition, the learned trial Judge has decreed the suit. He, therefore, submitted that the petition is rendered infructuous and liberty

may be reserved to defendant no.1 to challenge the impugned order in the appeal to be preferred by defendant no.1 in case he is so advised.

4. In view thereof, Petition is disposed of as infructuous. It is, however, expressly made clear that where a decree is appealed from by the petitioner, any error, defect or irregularity in the impugned order, affecting the decision of the case, may be set forth as a ground of objection in the memorandum of appeal as contemplated by Section 105(1) of C.P.C.

(R.G.KETKAR, J.)