

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Civil Application [CAF] No.916 of 2016
IN
First Appeal No. 204 of 2016
[Mohd. Harun Hasam Nagani Vs. Ashwin Wamanrao Golechha & another]

**Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.**

Court's or Judge's orders

Mr. P.A. Abhyankar, Adv., for the appellant-applicant.
Mr. B.G. Kulkarni, Adv., for respondent nos. 1 and 2.

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CORAM : A. S. CHANDURKAR, J.

DATE : 12th January, 2017

By this application, the appellant - original defendant seeks stay of the execution of the decree for specific performance passed by the trial Court on 14th July, 2015. By said decree, the respondents have been directed to deposit the balance consideration within a period of two months from the date of said decree and the appellant has been directed to execute a sale-deed of the suit property.

After hearing respective counsel for the parties, it is an admitted position that the appellant is in possession of the land agreed to be sold to the

respondents. Similarly, the respondents, in terms of the decree passed by the trial Court, have deposited the balance consideration of Rs. 1,37,62,500-00 [rupees one crore thirty-seven lakhs sixty-two thousand five hundred only] on 3rd September, 2015. As the hearing of the appeal would take some more time, and with a view to balance the equities, following order would serve the interest of justice:-

ORDER

- [a]** The respondents are permitted to withdraw the amount of Rs. 1,37,62,500-00 [rupees one crore thirty-seven lakhs sixty-two thousand five hundred only] along with interest accrued thereon, that has been deposited in the trial Court without prejudice to their rights and contentions. Needless to state that the respondents would have to deposit balance consideration in terms of the final orders passed by this Court if the occasion for the same arises.
- [b]** The appellant shall retain possession of the suit property, but shall not change its nature or create any third-party rights therein.
- [c]** On these terms, the decree passed by the trial Court shall remain stayed during pendency of the appeal.

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Civil Application is disposed of.

Judge

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