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

**CIVIL APPLICATION NO. 1437 OF 2017
IN
FIRST APPEAL NO. 429 OF 2017**

M/s Fiza Construction Co. ...Applicant/Appellant

vs

Mr Pandurang Keshav Thakur & Ors. ...Respondents.

.....

Mr S.M.Shettigar for the Applicant/Appellant.

Ms Aparna Shinde with Ms Tejashree Panchal for Respondent
No.20.

.....

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**CORAM : K.K.TATED, &
B.P.COLABAWALLA, JJ.
AUGUST 09, 2018.**

P.C. :

Heard learned counsel for parties.

2 By this Civil Application, the applicant - original Plaintiff is seeking stay to the implementation and execution of the Judgment and Decree dated 19th August, 2016 passed by the learned Civil Judge, Senior Division, Panvel in Application bearing Exhibit 34 filed by Respondent No.20 under Order VII Rule 11(d) of the Code of Civil Procedure. It is to be noted that by that order dated 19th August, 2016, the applicant - plaintiff's plaint stands rejected on the ground of limitation and hence there is no question of granting stay.

3 By prayer clause (b) of the Civil Application, the applicant is seeking an order of injunction restraining Respondent Nos. 20 to 23 from creating any further third party

rights in respect of the suit plot.

4 Admittedly Respondent Nos.20 to 23 have already developed the entire property. Learned counsel appearing for Respondent Nos.20 to 23, after taking instructions from her client, who is present in the Court, makes a statement that they have completed the entire project and created the third party rights.

5 It is to be noted that in the present proceedings, advocate for Respondent Nos.20 to 23 made a statement that they have already completed entire development and created third party right, title and interest. Considering these facts, this Court called upon advocate for the applicant to take instruction from his client that whether he is ready and willing to deposit the market value of the entire project in the Registry of this Court for seeking injunction order in terms of prayer clause (b).

6 Learned counsel for the applicant, after taking instructions from his client, submits that it is not possible for them to deposit the said amount.

7 Considering these facts as the project is already completed and third party rights are created by Respondent Nos.20 to 23, we do not find any reason to entertain the prayer clause (b) also.

8 The Civil Application is rejected.

9 No order as to costs.

(B.P.COLABAWALLA, J.)

(K.K.TATED, J.)