

Sarnobat

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

**CIVIL APPLICATION NO.1959 of 2018
IN
FIRST APPEAL NO.653 OF 2018**

Bipinchandra Natwarlal Shah ..Appellant
Vs.
Uma Narendra Patel & Ors. ..Respondents.

Mr.Sukand Kulkarni alongwith Ms.Leena Mirusee I/by M/s. Shah &
Sanghavi for the Appellant.
Ms.Vrushali Raje for Respondent Nos.1A to 1C.

CORAM : V. M. DESHPANDE, J.

DATE : 20th JUNE, 2018.

P. C. :

1. By this application the appellant who is the original plaintiff seeking stay and operation of the impugned judgment and decree dated 22nd March, 2018. The plaintiff's suit was for specific performance of contract. The said suit in so far as specific performance of contract is concerned stand dismissed by the impugned judgment. There is no need of granting stay to such decree of dismissal.

2. There is an agreement in between both the counsel that during the pendency of the suit there was a direction from the learned Judge of the Court below that the present respondent No. 1(a) to 1(c)

and all the defendants were directed not to create any third party interest. The said interim relief is continued by this Court earlier.

3. Today the appeal is already admitted by this Court.

4. Admittedly, respondent No. 1(a) to 1(c) are in possession as admitted by the plaintiff. In that view of the matter, in the interest of justice I pass following order;

ORDER

- i) During the pendency of the present appeal the respondent No. 1(a) to 1(c) shall not create any third party interest whatsoever in nature.
- ii) During the pendency of this appeal, the respondent No. 1(a) to 1(c) shall not handover possession to any third person without leave of this Court.
- iii) In future if necessity occurred for respondent 1(a) to 1(c) to deal with the property, then in that event it shall be open for respondent No. 1(a) to 1(c) to approach to this Court by filing appropriate application seeking appropriate directions in that behalf.
- iv) The respondent 1(a) to 1(c) are permitted to deposit an amount of Rs. 1,80,000/- as directed by the learned Trial Court before this Court within a

period of three weeks from today since though, the said amount through Demand Draft was tendered to the plaintiff, the same was refused.

- v) Needless to mention that the said amount to be invested in Nationalized Bank so as to save loss of interest.
- vi) The application is disposed off.

[V. M. DESHPANDE,J.]