

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

**CIVIL APPLICATION NO. 96 OF 2016
IN
FIRST APPEAL NO. 1174 OF 2015**

Ashim Ajit Sengupta & Anr.	...	Applicants
V/s.		
Dilip V. Kopikar & Anr.	...	Respondents

- Mr.Hiten S. Venegaonkar for the Applicants.
- Mr.Atul Damale, Senior Advocate a/w. Mr.V.S. Bhadkamkar for Respondent No.1.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 26th SEPTEMBER, 2018.

P.C. :

- 1] Heard learned counsel for both the parties.
- 2] This application is filed seeking the following reliefs:

“(i) That the Respondent No.1 be directed to handover flat No.A – 501, situated in Sai Sainik Apartment, 5th floor, Pimpri Pada Rd., General A.K. Vaidya Marg, Mumbai 400 097 or in the alternate to provide any other flat in the above Sai Sainik Apartment till the final disposal of the appeal.

“(ii) During the pendency and final disposal of the present application Respondent No.1 be directed not to create any third party interest in respect of the flats which are lying vacant and locked in the above Sai Sainik Apartment.”

3] When this very prayer made by the Appellants before the trial Court for seeking possession of the flat is rejected by the trial Court and the Appeal against same is pending, during the pendency of the Appeal the final relief to that effect cannot be granted. As regards the second prayer made in the application, directing Respondent No.1 not to create any third party interest in respect of the flats which are lying vacant in Sai Sainik Apartment, needless to state that such prayer cannot be granted, as the Appellant's right is limited only to the flat No.A-501.

4] Hence, the Application being without merit stands dismissed.

[DR.SHALINI PHANSALKAR-JOSHI, J.]