

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

**CIVIL APPLICATION (ST.) NO. 34850 OF 2018
WITH
CIVIL APPLICATION (ST.) NO. 34851 OF 2018
IN
APPEAL FROM ORDER (ST.) NO. 34849 OF 2018**

Mahesh Shakralal Chhatriwala & Anr. .. Applicants
Vs.
Smt. Shanta @ Sharda Rajan .. Respondent

Mr.Firdos Pooniwala, Advocate a/w. Mr.Niranjan M. Deshpande I/b Yatin Rasiklal Shah, Advocate for applicants/appellants.

Mr.Karl Tamboly, Advocate a/w. Mr.Malcolm Siganporia, Advocate, Mr.Dhruv Joshi, Advocate and Mrs. Nandini Joshi, Advocate I/b Harish Joshi & Co. for respondent.

**CORAM : A.S. CHANDURKAR, J.
DATE : 14TH DECEMBER 2018**

P.C.

**CIVIL APPLICATION (ST.) NO. 34850 OF 2018
(FOR CONDONATION OF DELAY)**

- 1 Perused the application and heard the learned counsel.
- 2 Considering the reasons mentioned in the application which appear to be acceptable, the delay in filing the appeal stands condoned.
- 3 The civil application is allowed and disposed of .

APPEAL FROM ORDER (ST.) NO. 34849 OF 2018

- 4 Heard. Admit. Admission of the Appeal from Order would not operate as stay of the suit. The suit shall proceed in accordance with law.

The learned counsel waives notice on behalf of respondent.

CIVIL APPLICATION (ST.) NO. 34851 OF 2018

5 Heard learned counsel and perused the documents placed on record.

6 The defendant agreed to sell Garage No.1B to the plaintiffs on 14th February 2013 for a consideration of Rs.25 lakhs. Earnest amount of Rs.5 lakhs was paid on the same day. No time was fixed for completing the transaction by paying the balance consideration. Further amount of Rs.8 lakhs was accepted by the defendants on 10th March 2015 though the entire balance consideration was to be paid when the Sale-Deed was to be executed. There was no exchange of written communications between the parties and only from 15th April 2018 the parties exchanged messages. The defendant volunteered on 22nd April 2018 return the amounts received by her. The suit has been filed immediately thereafter.

7 *Prima-facie*, considering the fact that the plaintiffs have paid more than half the amount of total consideration though under the agreement they were was required to pay the balance 4/5th amount only while executing the Sale-Deed coupled with the fact that the refusal by the defendant to complete transaction is only on 22nd April 2018, a case for grant of interim relief is made out.

8 Accordingly, there will be interim relief in terms of prayer clause (a) subject to balance consideration of Rs.12 lakhs being deposited by the appellants in this Court within eight weeks from today. By clarifying that observations in this order are only for deciding the issue of interim relief, the Civil Application is disposed of.

(A.S. CHANDURKAR, J.)