

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**FIRST APPEAL NO. 1162 OF 2018
ALONG WITH
CIVIL APPLICATION NO. 4062 OF 2018
ALONG WITH
CIVIL APPLICATION NO. 4074 OF 2018
IN
FIRST APPEAL (ST) NO. 26006 OF 2018
WITH
CIVIL APPLICATION NO. 4075 OF 2018**

Foseco India Limited ... Appellant

Versus

Zak Real Estate Private Ltd. and Anr ... Respondents

Adv Pranav Sampat I/by Khaitan & C. for the appellant.

Mr. P.K. Dhakephalkar, Sr. counsel I/by Jaydeep Deo for R. No. 1.

**CORAM : B.P. DHARMADHIKAKRI &
REVATI MOHITE DERE, JJ.
DATE : JANUARY 15, 2019**

P.C.:

Heard respective counsel. The judgment and decree for specific performance delivered on 17/4/2018 by 14th Jt. C.J.S.D. Pune in Special Civil Suit No. 2273 of 2010 has been questioned by lessee of the said property in F.A. No.1162 of 2018 and by owner of that property in other First Appeal. The other First Appeal is delayed and for condoning the delay of 4 days, Civil Application

No. 4074 of 2018 has been filed.

2. Learned counsel for the original plaintiffs fairly gives no objection to condone the delay as the other First Appeal is filed within limitation.

3. We therefore, allow Civil Application No.4074 of 2018 and registry therefore, is directed to register First Appeal (St) No. 26006 of 2018.

4. Both the appeals are admitted for final hearing.

5. Counsel for the respondents waives notice in both the matters.

6. We find that during the pendency of the appeals, appellants were restrained from creating any third party interest in suit property. Hence, in the present matters, we continue said interim directions during the pendency of the appeals.

7. Subject to this, the execution and operation of the decree impugned in the appeals is stayed. Leave to file private paper book within three months is granted to appellants to consider the request for expeditious final hearing

(REVATI MOHITE DERE, J.) (B.P. DHARMADHIKARI, J.)