

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

SECOND APPEAL NO.213/2019

Sahyandri Griha Nirman Sahakari Sanstha

..VS..

Pramod Balaram Bele & Oth

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri R. S. Nagpur, Advocate for the appellant
Shri A. V. Bhide, Advocate for the respondents

CORAM : V. M. DESHPANDE, J.

DATED : 02/07/2019

Heard Shri R. S. Nagpure, learned counsel for the appellant and Shri A. V. Bhide, learned counsel appearing for all the respondents.

2] After hearing the learned counsels for the appellant and respondents, the present appeal is admitted on following questions of law:

(i) Whether the appellate Court was justified in reversing the finding of the trial Court on the issue of readiness and willingness of the appellant in performing its part of the contract ?

(ii) Whether in the facts and circumstances of the present case, time could be said to be an essence of the contract ?

3] Call R & P.

4] Learned counsel Shri. A. V. Bhide, waives service of notice for the respondents.

CIVIL APPLICATION NO. 542/2018

This is an application for stay.

2] The appeal filed on behalf of the appellant is admitted by this Court, since it involves substantial questions of law. The suit for specific performance of contract filed by the appellant was decreed. The learned appellate Court partly allowed the appeal filed on behalf of the defendant and granted decree of refund of earnest money only, in favour of the plaintiff.

3] Since the present Second Appeal is admitted, during the pendency of the the present appeal the respondents shall not create any third party interest in respect of the suit property.

4] The application stands disposed of.

(JUDGE)

Namrata