

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

**CIVIL APPLICATION NO. 996 OF 2018
AND
CIVIL APPLICATION NO. 997 OF 2018
IN
SECOND APPEAL NO.434 OF 2018**

Sayyadasaheb Zamruddin Patel Applicant
(Ori. Defendant)

Vs.

Shahin Maula Mogal Respondent

Mr. Surel S. Shah for Applicant
Mr. Shikur Gafur Kudale for Respondent.

**Coram : NITIN W. SAMBRE, J.
Date : 15th January, 2020**

P.C.:

1. Heard
2. In the light of the view expressed by the Apex Court in the case of Atma Ram Properties (P) Limited Vs. Federal Motors (P) Limited, reported in (2005) 1 Supreme Court Cases, page 705, Mr. Kudale submits that even this Court can impose conditions on the appellant by granting interim relief, the appellant should be put to strenuous conditions.

3. In response of the above, while confronting aforesaid submissions, Mr. Shah, learned counsel for the appellant submits that once it is demonstrated that the alleged sale-deed was only for the purpose of name sake and there was no intention to transfer absolute title and right, the contention of the learned counsel for the respondent be rejected.

4. This Court cannot be oblivious to the relationship between the parties. The respondent-plaintiff is wife, whereas the son is born out of the relationship, who is in the custody of the non applicant-wife.

5. In the aforesaid background, it will be appropriate to direct the respondent to deposit Rs.3,500/- per month in the executing Court, to which the respondent will be entitled to withdraw.

6. In the backdrop of the aforesaid condition, the applications stand allowed.

7. There shall be stay to the execution.

8. Let the amount as directed herein-above be deposited in any case before 10th of each English calendar month.

9. As far as issue of grant of injunction is concerned, either of the parties shall be restrained in relation to the possession of the suit.

(NITIN W. SAMBRE, J.)