

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

**INTERIM APPLICATION NO. 2046 OF 2021
IN
CIVIL REVISION APPLICATION (ST.) NO. 7769 OF 2021**

Alka Shrirang Chavan and Ors.Applicants

V/s.

The State of MaharashtraRespondent

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Mr. Prasad Dani, Senior Advocate a/w. Mr. Siddhesh Bhole a/w. Mr. Nikhil Ghate, Advocate for the applicants.

Mr. Namitkumar Pansare i/by. Mr. Drupad Patil, Advocate for respondent no.2.

Coram : Sandeep K. Shinde, J.

Wednesday, 22nd September, 2021.

P.C. :

1. Heard.

2. Although, the respondent no.1 (contesting party) has been served, none appears for him.

3. Interim Application is filed in the following facts and circumstances :

3. Respondent no.1 is a decree-holder; whereas respondent no.2 is the judgment debtor, in a suit for specific performance of the contract. The judgment debtor sought dismissal of the Regular Darkhast on the ground that the decree-holder/plaintiff, did not deposit Rs.1,775/- within two months from the date of the judgment and order and this delay has rendered the decree in-executable. The learned executing Court rejected the application vide order dated 1st March, 2021; whereafter the judgment debtor challenged that order in Civil Revision Application (St.) No.7769 of 2021. Revision was heard and dismissed by this Court, and the Executing Court was directed to execute the decree on/or before 15th June, 2021. These facts are not in dispute.

4. Applicants before this Court, claim that they are bonafide purchasers of the 'suit property' without notice. They obstructed the execution of the decree. Their obstruction application was rejected. Whereafter applicant-obstructionist, preferred First Appeal No.169/2020 in the Court of District Judge at Pune. This fact was suppressed from this Court, in revision proceedings instituted by the judgment debtor.

5. In these facts and circumstances, the applicants claim that, if decree is executed, as directed by this Court, it would render their substantive First Appeal infructuous. Mr. Dani, learned Counsel for the applicants, correctly submitted that let the First Appeal No.169/2020 be decided expeditiously and till then the execution proceedings in Regular Darkhast No.205/1991 pending on the file of the Joint Civil Judge Senior Division, Pune be kept in abeyance.

6. In consideration of the facts of the case, in my view, it would be appropriate, if the First Appeal No.169/2020, is disposed off expeditiously. It is informed that, all parties in the First Appeal are duly served and have caused their appearances.

7. Mr. Dani, on instructions, informs, that after the order passed in the Civil Revision Application, the records and proceedings were sent back to the executing Court in Regular Darkhast No. 205/1991.

6. For the aforesaid reasons, I pass the following order:

(i) Joint Civil Judge Senior Division, Pune shall transmit the records and proceedings in Regular Darkhast No.205/1991 to the Court of District Judge at Pune in Regular First Appeal No.169/2021 within two weeks from the date on which the order is uploaded on the website of the High Court.

(ii) the learned District Judge shall dispose of the Regular First Appeal No.169/2020 expeditiously and within three months from the date on which he receives the record and proceedings from the executing Court as directed above.

7. The Interim Application is allowed and disposed off in the aforesaid terms.

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(Sandeep K. Shinde, J.)