

Santosh

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

SANTOSH
SUBHASH
KULKARNI

Digitally signed by
SANTOSH SUBHASH
KULKARNI
Date: 2021.10.07
18:03:13 +0530

**INTERIM APPLICATION NO. 3550 OF 2019
IN
FIRST APPEAL (ST) NO. 30555 OF 2019**

Mr. Andrew Ignatius

...Applicant/
Appellant/
Ori.Defendant

Versus

Mr. Anthony Derek Rebello

...Respondent/
Ori.Plaintiff

And

Mrs. Kamlesh Anthony Rebello

...Legal Heir and
Representative
of deceased
Ori.Plaintiff.

Mr. Santosh Vishwakarma, for the Applicant/Appellant.
Mr. Kunal Bhange, a/w Abhijit Patil & Yash Joglekar, for the
Respondent.

CORAM: N. J. JAMADAR, J.

DATED : 6th OCTOBER, 2021

PC:-

1. Heard the learned Counsels for the parties.
2. This application is preferred seeking stay to the execution, operation and implementation of the judgment and decree in Short Cause Suit No.331/2015, passed by the learned Judge, City Civil Court, Greater Bombay, on 26th July, 2018. By an ad-interim order dated 27th January, 2020, the interim relief was granted in terms of prayer clause (a).

3. In the intervening period, the applicant has preferred an application for bringing the legal representatives of the original plaintiff – respondent and the original applicant, who passed away in the intervening period, on record. By separate orders passed in Interim Application Nos.3551/2019 and 2007/2021 this Court has permitted the applicant to bring the legal representative of the deceased plaintiff – respondent and the applicant, on record.

4. By another order in Application No.3523/2019, the delay in preferring the appeal is condoned and, consequently, the appeal is admitted.

5. In the backdrop of the nature of the controversy, the appeal itself can be heard finally expeditiously. Mr. Bhange, the learned Counsel for the respondent submitted that the applicant be put to certain terms to secure the interest of the respondent.

6. The learned Counsel for the applicant – appellant informed the Court that the suit premises has been sealed by the jurisdictional police as a proceeding under Section 144 of the Code of Criminal Procedure, 1973, is initiated in respect of the said premises. It thus seems that the applicant is not in actual possession of the flat. In the circumstances, it may not be

expedient to direct the applicant to deposit an amount to secure the interest of the respondent.

7. An expeditious disposal of the appeal seems to be the only measure to address the grievances of the parties. Hence, the ad-interim order dated 27th January, 2020, shall continue to operate till the disposal of the appeal.

8. The application stands disposed of.

[N. J. JAMADAR, J.]