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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.54 OF 2019
ALONGWITH
CIVIL APPLICATION NO.49 OF 2019
IN
SECOND APPEAL NO.54 OF 2019**

Smt. Sunita Anant More Appellant
V/s
Chetan Subhash Chavan Respondent.

Mr. Sachin Gite for the Applicant.
Mr. Ajay Patil a/w Abhinav Bhatkar i/b Sachin Kadam for the Respondent.

CORAM: NITIN W. SAMBRE, J.

DATE: OCTOBER 18, 2022

P.C.:-

1] Based on Exhibit-24, agreement of sale dated 17/5/2005, Appellant/Plaintiff initiated suit for specific performance having already parted with part consideration of Rs 1.25 lakhs as against total consideration of Rs 2.5 lakhs.

2] Recitals in Exhibit-24 make it obligatory for the Appellant to secure permission from ULC Authorities before getting the Sale Deed executed which he has failed to. As a sequel of above, suit was partly decreed directing repayment of earnest money i.e. Rs 1.25 lakhs with interest @ 6% p.a.

3] Counsel for the Appellant while trying to make out a case for consideration in Second Appeal would urge that recitals in Exhibit-24 to the extent of permission to be obtained from ULC Authorities is not mandatory

as according to him such permission can even be obtained after decree is passed in the matter.

4] Mr. Patil, Counsel for the Respondent would urge that recitals in Exhibit-24 is mandatory as before execution of Sale Deed, requisite permission from revenue authorities under the provisions of ULC Act was necessary for execution of Sale Deed. Apart from above, he would urge that the amount as was directed was already deposited by the Respondent/Defendant on 9/11/2010 before the Civil Court in Civil Suit No.108 of 2007.

5] I have appreciated the submissions.

6] Apart from the fact that present Second Appeal is against the concurrent findings, fact remains that specific incorporation of condition to the effect of securing permission from ULC Authorities by the Appellant appears to be mandatory as in the absence of such permission Sale Deed of the property covered under the ULC Act cannot be accepted and registered. If contention of Mr. Gite, Counsel for the Appellant is accepted then Sale Deed cannot be executed for want of clearance from the ULC Authorities in the form of no objection. As such, decree would have rendered redundant in that eventuality.

7] In this background, in my opinion, Appeal lacks substantial question of law. As such, Appeal fails and same stands dismissed. As consequence, pending Civil Application does not survive and same is disposed of.

(NITIN W. SAMBRE, J.)