

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION
INTERIM APPLICATION NO.3814 OF 2021
ALONG WITH
ARBITRATION APPEAL NO. 27 OF 2021

M/s. Golden Touch Developments]
Private Limited] ... Applicant/Appellant

Vs.

M/s. Raviraj Creative Association] ... Respondent

...

Mr. Birendra Saraf, senior advocate with Mr. Kushal Amin i/b
Jaydeep Deo for applicant/appellant.

Mr. Anoshak Daver with Mr. Ameya Deosthale and Ms. Moksha
Kothari i/b Stratage Law Partners.

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**CORAM : K.R. SHRIRAM &
KAMAL KHATA, JJ.**

DATED : 28TH NOVEMBER, 2022.

P.C.:-

INTERIM APPLICATION NO.3814 OF 2021

1. The application is for stay of the execution, operation and implementation of the judgment and order dated 11/03/2020 as well as Award dated 16/03/2018. We are not inclined to consider this application for the following reasons:

- (a) Though the impugned order is dated 11/03/2020, the interim application has been affirmed only on 16/12/2020 and lodged on 18/12/2020.
- (b) No application for any urgent ad-interim relief has also been made.
- (c) The application has also got listed today, not because of any circulation sought, but in due course.
- (d) There was no stay granted or application moved in the application made under Section 34 of the Arbitration and Conciliation Act, 1996.

2. Therefore, interim application rejected.

ARBITRATION APPEAL NO. 27 OF 2021

3. This is an appeal under Section 37 of the Arbitration & Conciliation Act, 1996 (for short, **“the said Act”**).

4. At the outset, when we pointed out to Dr. Saraf that the scope for this court to interfere in an appeal under Section 37 of the said Act is very narrow, Dr. Saraf submitted that appellant

was constrained to approach this court because the appellant has filed an independent suit against respondent and 19 others for possession of the same property, which was the subject matter of the arbitral proceedings. The suit being filed for specific performance and possession, appellant's apprehension that the observations made by learned Single Judge in his order, dismissing the petition under Section 34 of the said Act may come in the way of appellant succeeding in that suit.

5. In our view, it will not, because learned Single Judge has held, the possession is with respondent. Appellant may independently prove in that suit that the possession should actually go to appellant. That, the court would consider on its own merits and each of the parties to the suit have their right to kept open to be agitated before the trial court.

6. We clarify that we have not made any observations that possession should go to appellant. That the trial court would decide independently, on its own merits.

7. Appeal dismissed.

[KAMAL KHATA, J.]

[K.R. SHRIRAM, J.]