

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

SECOND APPEAL NO. 102 OF 2022

Shri. Dhananjay S/o Wasudeo Dixit and another

vs.

Shri Kumar S/o Wamanrao Dumbhare and another

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. A. V. Khare, Advocate for appellants.

Mr. M. R. Johrapurkar, Advocate for respondent No.1.

CORAM : MANISH PITALE J.

DATE : 04/04/2022

CIVIL APPLICATION (CAS) NO. 318 OF 2022

At the outset, Mr. Khare, learned counsel appearing for the appellants submits that he is not pressing Civil Application No.318 of 2022, which is an application for grant of interim relief, for the reason that page No.2 of the application is missing. The said application is disposed of as not pressed.

2. It is also submitted that the appellants have filed Civil Application No.320 of 2022 to pray for grant of interim relief.

SECOND APPEAL NO.102 OF 2022

Heard learned counsel appearing for the appellants.

2. Issue notice on the following substantial questions of law :-

1. Whether both the courts below were right in holding that plaintiffs could not prove their readiness and willingness to perform their part of contract even when it is held in favour of plaintiffs that time was not the essence of contract ?

2. Whether both the courts below were right in holding that plaintiffs were not ready and willing to perform their part of contract even when Exh.-47 clearly shows that they already had a sanctioned loan for purchase of house property ?

3. The notice shall be returnable in **four weeks**. Mr. Johrapurkar, waives notice on behalf of respondent No.1.

CIVIL APPLICATION NO. 320 OF 2022

This is an application seeking interim relief. This Court has already issued notice on substantial questions of law framed.

2. Hence, issue notice on this application also, returnable in **four weeks**. Mr. Johrapurkar, waives notice on behalf of respondent No.1.

3. In the meanwhile there shall be ad-interim relief in terms of prayer clause (i) till the next date of listing.

CIVIL APPLICATION (CAS) NO. 319 OF 2022

This is an application under Order 41 Rule 27 of the CPC. The respondent No.1 has already filed reply in the said application.

2. Hence, this application will be taken up for consideration on the next date of listing.

JUDGE