

Nikita

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

**CIVIL APPLICATION NO.1423 OF 2019  
IN  
FIRST APPEAL NO.429 OF 2019**

Premvati (Ailas) Premvati Devidas  
Anand (Deceased) Nirmala Khosla  
(Deceased) Sanjay Khosla & Ors. ... Appellants

**V/s.**  
Sanjay Vijay Kumar Adukia ... Respondent

Dr. Abhinav Chandrachud a/w Mr. Ashish Dubey for  
the appellant.

Mr. Vinod Pandey for the respondent.

**CORAM : AMIT BORKAR, J.**

**DATED : FEBRUARY 14, 2023**

**P.C.:**

1. The appellants are original defendants against whom suit for specific purpose has been decreed. The Trial Court by the impugned judgment has directed the plaintiff to deposit balance consideration and additional amount of Rs.25,00,000/- within six (6) weeks from the date of the judgment. The defendants are directed to execute the agreement in favour of the plaintiff immediately on deposit of the balance amount and the additional amount.

2. This Court by order dated 4<sup>th</sup> August 2021 has already admitted the appeal. This Court protected the applicant by way of

interim order by order dated 31st August 2021.

3. According to the learned advocate for the opponent, the Trial Court has passed equitable order balancing rights of the parties, therefore, there is no question of grant of interim relief in favour of the applicant.

4. On perusal of the appeal memo, it appears that arguable questions of facts and law are raised. The appeal against decree for suit for specific performance have been admitted.

5. The interim relief granting stay to such decree needs to be granted on satisfaction of *prima facie* case. Since the appeal against the decree for specific performance is an appeal against exercise of discretion, questions in relation to issue framed by the Trial Court, readiness and willingness to the plaintiff and the legality of the quantum of amount of Rs.25,00,000/- additionally directed to be paid by the learned Trial court requires consideration at the stage of final disposal of the appeal.

6. Considering the nature of decree of specific performance, the applicant has made out the case for grant of interim relief.

7. For the reasons stated above, Civil Application is allowed in terms of prayer clause (a). No costs.

(AMIT BORKAR, J.)