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CA 12243.24 SR. 914.odt

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO. 12443 OF 2024
IN SA/382/2024
SECOND APPEAL NO. 405 OF 2024**

Bharat Jadhav Chavan

....Appellant

VERSUS

Rohidas Ramji Chaudhari

.....Respondent

.....

Advocate for Appellant : Mr. Subodh Pravinkumar Shah

Advocate for Respondents : Mr. S.S.Bora

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 12TH DECEMBER, 2024.

P.C. :-

1. Second appeal has been admitted after framing substantial questions of law. By this application, the applicant seeks stay to the execution and implementation of the impugned judgment and decree in appeal.

2. Admittedly, applicant is in possession of the suit property. The question involved in the second appeal is, whether his possession is in pursuance of the agreement to sale or he has been inducted as a Licensee.

3. The trial court accepted the defendant's case that he was put in possession on the basis of agreement to sale, however, refused to grant further relief of specific performance. The appellate court, however, refused to accept the case of defendant and directed defendant to hand

over possession to the plaintiff after receiving Rs. 1 Lakh i.e. amount of deposit towards licence.

4. Rival claims of the parties would be finally adjudicated in the pending second appeal. It would, therefore, be appropriate to direct parties to maintain status-quo, however, subject to condition of making some deposit by the applicant, which can be adjusted on the basis of final outcome of the appeal. Hence, following order :-

ORDER

- [A] There shall be stay to the execution and implementation of the judgment and decree in appeal, subject to condition that the applicant deposits total amount of Rs. 2,00,000/- (rupees two Lakhs) with the registry of this Court within a period of eight weeks from today.
- [B] The first installment of Rs. 25,000/- towards such deposit shall be deposited within a period of three weeks from today and the balance amount shall be deposited within next five weeks thereafter.
- [C] In case of failure to deposit the amount as aforesaid, the interim relief shall stand automatically vacated without further reference to the Court.
- [D] Civil application stands disposed of accordingly.

[S.G. CHAPALGAONKAR, J]

grt/-