

rrpillai

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 412 OF 2018
WITH
CIVIL APPLICATION NO. 1547 OF 2016**

Khurshid A. Hamid Inamdar ... Applicant/Appellant
Vs.
Dnyaneshwar @ Balu Ishwar ... Respondents
Babar (Through LRs) and Another

Mr. S. S. Inamdar for the Applicant/Appellant.

Mr. M. R. Deshpande for the Respondents.

CORAM : GAURI GODSE, J.

DATE : 11th SEPTEMBER 2024

ORDER :

1. This Civil Application seeks stay to the decree of possession. The Second Appeal is already admitted. Learned counsel appearing for the original plaintiff submits that there is a document of title in favour of the plaintiff. He submits that the present appellant is occupying the suit premises without making payment of any amount. He submits that by way of a condition for stay the appellant be directed to pay an amount of Rs.3,000/- per month by way of compensation.

2. Learned counsel for the appellant submits that there is no basis for imposing condition of an amount of Rs.3000/-. He submits that that the suit property was allotted to the appellant, by the respondent no. 2 – society.

3. Though learned counsel for the respondent no. 1 submits that there is a registered document of title in favour of respondent no.1, he is unable to point out the particulars of any production of document in the trial court. By order dated 1st February 2024 the second appeal is admitted on the point that whether decree for possession could have been passed without any documentary evidence produced by the plaintiff to establish allotment of suit premises in favour of the plaintiff. In view of the aforesaid, I do not see any reason to impose any condition for grant of stay.

4. The impugned decree is in favour of respondent no.1. i.e. original plaintiff. Hence, for deciding the Civil Application notice to respondent nos. 2 who is original defendant no. 2 would not be necessary. Hence, ad -interim relief granted by this court on 1st February 2024 is confirmed.

5. During the pendency of the Second Appeal, there will be interim stay in terms of prayer clause (b).
6. During the pendency of the Second Appeal, the applicants shall not create any third party interest or part with possession of the suit property in favour of any third party.
7. Civil Application is allowed in the aforesaid terms.

[GAURI GODSE, J.]