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

**INTERIM APPLICATION NO.18360 OF 2023
IN
FIRST APPEAL NO.500 OF 2014**

Jayesh C. Doshi & Anr. ..Applicants

IN THE MATTER BETWEEN

Bengal Mill Stores Private Limited ..Appellant

Versus

Jayesh C. Doshi & Ors. ..Respondents

Mr. Satyavan N. Vaishnav a/w Nupur J. Mukherjee i/by N. N.
Vaishnawa & Co., for the Applicants/Org. Respondent Nos.1 & 2
Mr. Ajay Joshi a/w Dhananjay Ranaware, for the Appellant.
Mr. Nitesh Bhutekar, for the Respondent Nos.3 to 5.

CORAM : KISHORE C. SANT, J.

DATE : 30th JANUARY, 2024

PC.

1. Heard the parties.
2. This Application is filed for return of the document i.e. original Agreement dated 2nd September, 1998 which was filed on record by way of evidence before the Trial Court. The return is sought for the purpose of taking benefit under the Bombay Stamps Act, wherein the Government of Maharashtra has exempted such documents which are executed from 1st January, 1980 till 31st December, 2020 by named as Abhay Yojana-2023 dated 29th November, 2023.

3. Learned advocate for the Respondents opposes the Application stating that by taking benefit of the scheme, the Applicants are likely to alter the position and may claim benefit on the basis of the registration.

4. Learned advocate for the Applicants however fairly submits that he shall not claim any equity and he will redeposit the document on record.

5. This Court finds that no prejudice will be caused to any parties if the document is returned to the Applicants. At the same time, it is necessary to make it clear that this return of the document shall not create equity in favour of the Applicants. Any action taken pursuant to this order shall not alter the provision for all the parties, the document would be considered as it was on the date of tendering the same in the proceedings before the Trial Court. Hence, the following order :-

- i) The Application is allowed.
- ii) Office to return the original Agreement dated 2nd September, 1998 in respect of Flat No.1, 1st Floor in the building known as Shatrunjay, Shree Hind Co-op. Housing Society Ltd., Duncan Causeway Road, Sion, Mumbai-400 022.
- iii) If registration is done, Applicants shall not claim any equity. This will not cause prejudice to any of the parties.

So far as this proceeding is concerned, document shall be treated as on the date of producing same before Trial Court. Applicants shall keep one authenticated copy of the said document on record.

- iv) Office to give the original document within one week.
 - v) The same be redeposited immediately on payment of stamp duty and registration, in any case, before 8th April, 2024.
6. With this, the Application stands disposed of.

[KISHORE C. SANT, J.]

Corrected pursuant to speaking minutes of order dated 05.02.2024.