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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 114 OF 2024
WITH
INTERIM APPLICATION NO. 1692 OF 2024
IN
SECOND APPEAL NO. 114 OF 2024

Shankar Nathulal Sharma ... Appellant/Applicant
vs.
Navnath Haridas Shinde ... Respondent

Mr. D.J. Shejul, for Appellant/Applicant.
Mr. Ashay Gajbhiye, for Respondent.

CORAM : GAURI GODSE, J.
DATED : 18th JULY 2024

ORDER:

1. This Second Appeal is filed by the original defendant challenging the concurrent judgments and decrees granting specific performance of the suit agreement. Learned counsel for the appellant submits that the plaintiff has illegally made a correction in the suit agreement by referring to the suit property as SS-3 instead of Flat No. SS-1. He further submits that though the suit property stands in the name of the appellant, even the appellant's wife has

an interest in the suit property. Hence, the suit could not have been decreed for specific performance. He thus submits that the Second Appeal would require consideration on the point that correction was illegally made by the plaintiff in the suit agreement.

2. I have considered the submissions made on behalf of the appellant. Perused the papers. The suit agreement is a registered document. The defendant had filed his written statement and admitted the execution of the agreement. The part payment made towards the consideration amount is not disputed. Both the Courts have accepted the terms of the agreement to be correct and valid. The payment towards part consideration amount is a cheque payment, which is also accepted by both the Courts. The contentions with regard to the appellant's wife being co-owner of the property are not accepted by both the Courts. The defendant has admitted the execution of the agreement and also accepted payment towards the part consideration amount. There is no dispute on the terms and conditions of the agreement. Thus, both the Courts are right in accepting the plaintiff's case for specific performance.

3. I do not find any illegality or perversity in the reasons recorded by both courts for granting specific performance of the suit

agreement. The decree for specific performance issues necessary directions regarding depositing the balance consideration amount and necessary permission to be obtained from CIDCO for completing the terms and conditions of the suit agreement.

4. I do not find any substance in the ground argued on behalf of the appellant. The arguments made by the learned counsel for the appellant would require re-appreciation of the facts on record, which is not permissible under Section 100 of the Civil Procedure Code, 1908.

5. The second Appeal does not raise any substantial question of law. Hence, the Second Appeal is dismissed. In view of the dismissal of the Second Appeal, Interim Application No. 1692 of 2024 is dismissed as infructuous.

(GAURI GODSE, J.)