HUSENBASHA RAHAMAN NADAF
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 7488 OF 2024
IN
FIRST APPEAL 1060 OF 2024

Hemang S. Mehta ....Applicant
V/s
Dattatraya Jayaram Jadhav And Ors. ....Respondents

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Mr. Pradeep J. Thorat i/b. Mr. Abhishek Upadhyay for Applicant/Appellant.
Mr. Ashutosh Kaushik (through VC) a/w. Namrata Parmar a/w. Ms. Laxmi Mishra i/b. M/s. Kaushik And Co. For Respondent No. 1.

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CORAM : M.M. SATHAYE, J.

DATE : 4th AUGUST, 2025

P.C. :

1. This is an application by original Defendant No.3(b) seeking stay to the impugned judgment and decree dated 07.03.2024, under which the Defendants (including present Appellant) are directed to execute final document of sale in favour of the Plaintiff.

2. Record indicates that the appeal is already admitted in May 2024. By earlier order dated 10.05.2024 passed in this application, it is already directed if execution is filed, the same shall not be proceeded with.

3. Learned counsel for Respondent No.1 (sole Plaintiff) submits that the Plaintiff is a person of advanced age of 72 years as on today. He submits that the suit was initially filed in this Court in the year 1990 which was subsequently transferred to the City Civil Court due

to change in pecuniary jurisdiction. He submits that the agreement of which specific performance is granted, is registered document dated 09.12.1985 registered in January 1986. He submits that at the relevant time, the consideration was only Rs.1,26,000/- out of which he has already paid Rs.1,13,000/-. Considering the aforesaid factual situation, it is submitted that the appeal itself be taken up for final disposal.

4. I have considered the submissions. The appeal is already admitted and this is a substantive first appeal challenging decree of specific performance, in which, the Defendant Nos.1 & 2, who had sold the suit premises to the present Appellant, have not contested the suit. Accordingly to Appellant, this is a collusive suit.

5. In such situation, if the decree of specific performance is permitted to be executed, the whole first appeal will become infructous.

6. In that view of the matter, the application is allowed and operation of the impugned judgment and decree is stayed during the pendency of the appeal.

7. Considering the submissions of learned counsel for Respondent No.1 (sole Plaintiff), hearing of the appeal is expedited. He is at liberty to apply for fixing date of hearing in the appeal.

(M.M. SATHAYE, J.)