

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

**FIRST APPEAL NO. 1862 OF 2024
ALONGWITH
INTERIM APPLICATION NO. 15112 OF 2024**

Mohan K. Shetty

...Appellant

Vs.

Lalitha Vasu Shetty And Ors

...Respondents

Mr. Vishal Kanade with Ashok Kumar Singh, Rajiv Dixit	Advocate for the Appellant
Adv. Neeta Jain i/by Adv. Ajit Shobhawat, Adv. Naineel Chheda, Adv. Bikramjit Singh Hundal	Advocate for the Respondent Nos. 1 and 2.

CORAM : S. M. MODAK, J.

DATE : 14th OCTOBER 2025

P. C. :-

1. It is true there is possession decree passed by the City Civil Court, this is challenged by the Appellant. There is interim application filed for staying the execution of the decree. The pleadings are over.

2. Such application has to be decided on touchstone of provisions of Order 41 Rule 5 of the Civil Procedure Code. If the Appellant succeeds in getting interim relief, the Court can certainly put

conditions.

3. According to learned Advocate for contesting Respondents, if the findings of the trial Court are considered, no case for grant of interim relief is made out.

4. On this background, learned Advocate for the Appellant seeks time to take instructions about deposit of certain amount towards the occupation charges as per law laid down in cases of *Atmaram Properties (P) Limited Vs. M/s Federal Motors Pvt. Ltd.*¹ and *State of Maharashtra and Anr. Vs. M/s Super Max Internatinoal (P) Ltd.*². The Appellant is ready to communicate to other side about his readiness to deposit the quantum of the amount. The Respondent-Plaintiff is also ready even to oppose about imposition of the occupation charges by submitting that no case for interim relief is made out.

5. In view of that by consent, matter be kept on **13th November 2025 for direction.**

6. It is made clear that this offer is without prejudice to the rights of both the parties.

[S. M. MODAK, J.]

1 SCR (2004) Supp 6 SCR

2 (2009) 13 (NDDL) SCR 801