

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**APPEAL FROM ORDER NO. 1103 OF 2022
IN
ORDER BELOW EX.5 & ORDER BELOW EX.34 IN COUNTER
CLAIM IN
SPECIAL CIVIL SUIT NO. 1245 OF 2021**

**ALONGWITH
INTERIM APPLICATION NO. 20391 OF 2022**

M/s. Nanded City Development
and Construction Company Ltd.

...Appellant

V/s.

Laxman Eknath Dedge and Ors.

...Respondents

Mr. G.S. Godbole, Senior Advocate i/by. Ms. Shruti Tulpule, for
the Appellant.

Mr. Surel Shah i/by. Mr. Shailesh D. Chavan, for the
Respondents.

CORAM : SANDEEP V. MARNE, J.

Judg.Resd. On : 13 October 2023.

Judg. Pron. On : 25 October 2023.

JUDGMENT :

1. ***Admit.*** With the consent of the learned counsels
appearing for parties, the appeal is taken up for hearing.

2. This Appeal is filed challenging order dated 3 October 2022 passed by the 11th Joint Civil Judge Senior Division, Pune rejecting Appellant-Plaintiff's application at Exhibit-5 for grant of temporary injunction and allowing application filed by the Respondents-Defendants at Exhibit-34 granting temporary injunction in favour of the Defendants by restraining Plaintiff from obstructing Defendants' possession of the suit property.

3. The Appellant-Plaintiff is carrying out a phasewise development of large land parcel admeasuring 274.6977 hectares in Village-Nanded and 4.5847 hectares in Village-Khadakwasla, Taluka-Haveli, District-Pune in pursuance of Notification dated 23 January 2008 issued by the State Government under the provisions of Maharashtra Regional and Town Planning Act, 1966 for development of township named "Nanded City". A joint Development Agreement dated 20 April 2011 came to be executed with the Respondents-Defendants in respect of land admeasuring 2100 sq.mtrs (21 Ares) at Survey No.57, Hissa No.3A (Part) and Survey No.57, Hissa No.5(Part)at Village-Nanded. A Power of Attorney dated 20 April 2011 is also executed by the Defendants in Plaintiff's favour empowering it to do various acts and deeds for development of the suit property. Under the Agreement, the consideration payable to the Defendants is proportionate to their land holdings covered by the Project. Their land holding in the total project which is 0.08%. Commensurate to their land holding, the Defendants are entitled to receive monetary

consideration in the form of 30% sale proceeds from built up area and 60% sale proceeds from lay out plots. It appears that in pursuance of the Development Agreement, so far Plaintiff has allotted to the Defendants, four flats and one shop (additional area of the shop being purchased by one of the Defendants). According to Plaintiffs as on 10 May 2021, the Defendants were entitled to receive total amount of Rs.1,40,98,452.69/- corresponding to their 0.08% profit share whereas they were granted profit to the tune of Rs.3,30,64.945.72/- in the form of constructed flats and shops and payments made. It appears that the Defendants desired allotment of a developed plot admeasuring 3 Ares/5 Ares and Plaintiff expressed inability to allot the same. This has apparently caused disputes between the Plaintiff and the Defendants.

4. Plaintiff has instituted Special Civil Suit No. 1245/2021 in the Court of Civil Judge Senior Division against the Defendants for specific performance of Joint Development Agreement dated 20 April 2011 and also for seeking a permanent injunction from obstructing the Plaintiffs from development of the suit property. In its suit, the Plaintiff filed application at Exhibit-5 for grant of temporary injunction to restrain the Defendants from obstructing development of the suit property or disturbing possession of the Plaintiff over the suit property as well as for restraining the Defendants from creating third party rights in the suit property. In addition to defending the suit filed by Plaintiff, the Defendants have

instituted a counterclaim for cancellation of Joint Development Agreement dated 20 April 2011 and for restraining the Plaintiff from disturbing Defendants' possession over the suit property. In their counterclaim, the Defendants filed application at Exhibit-34 seeking temporary injunction against Plaintiff from disturbing Defendants' possession over the suit property. The Trial Court has proceeded to reject Plaintiffs' application for temporary injunction at Exhibit-5, while it has allowed the Defendants' application at Exhibit-34 and has granted temporary injunction restraining Plaintiff from disturbing the Defendants' possession over the suit property. The Plaintiff is aggrieved by the order passed by the Trial Court on 03 October 2022 and has filed the present Appeal.

5. Mr. Godbole, the learned senior advocate would appear on behalf of the Plaintiff/Appellant and submit that the suit property includes and forms part of large land parcel on which the Plaintiff is carrying out development of a township in accordance with Notification issued by the State Government on 23 January 2008. That in such circumstances, injunction in respect of an individual land owner, affecting development of the entire land parcel, cannot be granted. He would submit that Plaintiff has always honoured its obligations under the Joint Development Agreement and that the actions of the Defendants in disturbing Plaintiff's possession or obstructing it from carrying out development activities over the suit property

are totally unwarranted. That Plaintiff has so far paid/granted to the Defendants extra amounts over and above their entitlements under the Development Agreement. That Defendants' demand for allotment of plot admeasuring 3/5 Ares does not flow from the Development Agreement. That therefore the Defendants can neither seek cancellation of Development agreement, much less any injunction can be granted in their favour. Referring to the covenants of the Development Agreement, Mr. Godbole would submit that the Defendants have handed over possession of the suit property under the Development Agreement in favour of the Plaintiff and cannot seek injunction against the Plaintiff by falsely contending that they continue to be in possession of the suit property.

6. *Per-contra*, Mr. Shah the learned counsel appearing for the Respondents/Defendants would oppose the Appeal and support the order passed by the Trial Court. Inviting my attention to Plaintiff's letter dated 28 April 2016, Mr. Shah would submit that the contents of that letter would leave no matter of doubt that possession of the suit property still continues to remain with the Defendants. That once Defendants' possession is proved, no fault can be found in the order passed by the Trial Court in granting injunction in favour of the Defendants. He would further submit that the Plaintiff has given discriminatory treatment to the Defendants and that Plaintiff has granted plots to various other land owners and is deliberately refusing to allot the plot

of land in favour of the Defendants. That the Shop in question is purchased by the Defendants and its cost is illegally been shown as profit paid to the Defendants under the Development Agreement. That the Defendants have paid amount of Rs.51,96,248/- towards purchase of the Shop and therefore allotment of that Shop cannot be treated as a consideration paid to the Defendants under the Development Agreement. That the pretext of negative balance in Defendants' account cited by Plaintiffs for refusal to allot the plot, is totally misplaced in that the Plaintiff has allotted vacant plots to several other land owners with negative balance and with much lesser land holding. Lastly, Mr. Shah would contend that the Defendants are willing to refund/deposit in the Trial Court the entire amount of Rs.3,30,64,145.72/- to show their *bonafides*. He would pray for dismissal of the petition.

7. Rival contentions of the parties now fall for my consideration.

8. The nature of the Joint Development Agreement executed between the parties would indicate that various land owners of Village-Nanded and Khadakwasla have come together for carrying out joint development of their lands by implementing a Township Scheme collectively. The recitals of the Agreement make reference to expertise of Mr. Satish Magar in development of Township Project. In pursuance of the desire so expressed by the land owners of Villages-Nanded

and Khadakwasla, Mr. Satish Magar incorporated a Company named 'M/s. Nanded City Development and Construction Company Ltd' under the provisions of the Companies Act, 1956. It appears that under the aggregate shareholding, Mr. Satish Magar, his family members, associates, nominees and assignees hold 51% shares of the Company, whereas the remaining 49% shares in the Company are owned by the land owners in proportion to their respective area of land pooled contributed to the project. Thus, this is not a simple or plain Development Agreement under which the landowner grants his/her land to develop and receives consideration and/or constructed portion in the building. Under the Joint Development Agreement dated 20 April 2011, as well as on account on incorporation of the Plaintiff Company, the Defendants are shareholders as well as profit earners in the business activities of the Plaintiff. Considering the limited issue in the present Appeal relating to temporary injunction, it is not necessary to refer to the various clauses of the Joint Development Agreement at this juncture. However, a brief overview of the Joint Development Agreement would indicate that Defendants in their capacity as shareholders of the Company and profit earners in the project, are entitled to receive 0.08% profits in the project, which is to be paid in the form of profits out of sale proceeds of 30% built up area and 60% of layout plots.

9. It appears that under the Joint Development Agreement, an amount of Rs.13,12,500/- was paid to some of

the Defendants at the time of its execution. As per the consent given by the other Defendants, it was agreed that the said advance was to be appropriated towards entitlements of those Defendants towards profits in the venture. Under the Joint Development Agreement, the accounts of amounts payable to the landowners were to be determined at the end of each year. Thus, the joint Development Agreement did not *prima-facie* envisage allotment of any constructed portion/developed plot to the landowners. However, it appears that in pursuance of the various requests made by the landowners, constructed flats and shops have been allotted to them by the Plaintiff-Company from time to time. Every time any constructed flat/shop is allotted to a landowner, its price is debited in the account of such landowner. There is no dispute to the position that Defendants themselves have accepted allotment of four flats so far. There appears to be some dispute about sale of Shop G-50 between the parties. The Defendants claim that the said shop has been independently purchased and has no relation to the Joint Development Agreement. On the contrary, the plaintiff claims that an amount of Rs. 30,00,000/- towards consideration payable for that Shop has been adjusted in the accounts of some of the Defendants. It is not necessary to delve deeper into that controversy at this juncture.

10. According to Plaintiff, as on 10 May 2021 the amount entitled to be earned by Defendants under the Joint Development Agreement was Rs.1,40,98,452.69/- whereas

they had already drawn the benefit to the extent of amount of Rs.3,30,64,945.72/-. It is Plaintiff's case as per its letter dated 10 May 2021 that an amount of Rs.1,89,66,493.03/- was overdrawn by the Defendants as per the land cost statement.

11. Disputes have arisen between the parties on account of a demand raised by Defendants for allotment of a developed plot out of the business venture in Defendants' favour. It appears that initially the demand was for allotment of plot of 3 Ares and later it is increased to 5 Ares. The said demand is made by the defendants on the ground that the Plaintiff has similarly allotted developed plots to other land owners. Plaintiff has rejected the request on the ground that there is negative balance in the land cost statement of the Defendants. It is Defendants' case on the other hand that despite negative balance, developed plots have been allotted to other land owners with substantially lower land holdings. Defendants cry meting out a discriminatory treatment.

12. It is on account of dispute over the allotment of developed plot that the Defendants now desire to walk out of the Joint Development Agreement. Upon being queried as to whether they can do so after having reaped the benefits to the extent of Rs.3,30,64,945.72/-, Mr. Shah, after taking instructions from one of the Respondents who was personally present during the course of hearing of the Appeal, is quick enough to respond that the Defendants are willing to deposit Rs.3,30,64,945.72/- in the Trial Court.

13. The issue that the Trial Court was required to address while deciding the applications filed seeking temporary injunction filed by both the parties in the Suit and the Counterclaim was whether the Defendants can be permitted to walk out of the Joint Development Agreement. As observed above, this is not a usual development agreement. The Defendants have become shareholders in the Company and have been drawing profits out of the venture with passing of each day. They could have simply sold or granted development rights in respect of the suit land and received the consideration at one go. However they took a conscious call of becoming partners in the business venture by contributing their land towards the capital of the company and thereby agreed to accept deferred payments (in the form of profit sharing) over a long period of time.

14. It is large-scale development spanning over 700 acres of land where a township project is being constructed. On the joint request of the landowners, the State Government has sanctioned development of township scheme under the provisions of the Maharashtra Regional and Town Planning Act, 1966. In such circumstances, if any individual land owner decides to walk out of such a Joint Development Agreement, the entire project can get affected. It may happen that land of a substantial smaller size may be located at a such a crucial spot in the township that any obstruction

caused by that landowner would put the entire project in quandary. It is therefore necessary that the landowners cannot be permitted to wriggle out of such a largescale development, so long as the company continues to honor its obligations arising out of Joint Development Agreement. This is particularly so because the landowners themselves are developers in this particular case. *Prima-facie*, there is nothing as to indicate that the Plaintiff-Company has dishonoured any of its obligations arising out of the Joint Development Agreement. It is a conscious call taken by all the landowners collectively to draw profits out of joint venture as the project progresses. Each time a flat or a plot in a project is sold, both Plaintiff as well as the owners receive profit out of the same. Such kind of project is going to take a long time for its development. As per the arrangement agreed in the Joint Development Agreement, the landowners will continue to draw profits with passing of each year. The profit shown in the Accounts of the Defendants as on 10 May 2021 was 1,40,98,452.69/- which must have increased by now. The question whether the Defendants can walk out of such unique arrangement putting the entire project in a quandary begs an answer. To my mind, except a situation where there is major dishonor of obligations under the Joint Development Agreement, the landowners would ideally be not be allowed to wriggle out of the arrangement.

15. So far as the aspect of possession is concerned, strong reliance is placed by Mr. Shah on Plaintiff's letter dated 28 April 2016. True it is that the letter states that the Defendants ought to have handed over possession of the entire land in terms of the Joint Development Agreement and that possession of land bearing Survey No.57/3A admeasuring 0.085 hectares and Survey No.57/5 admeasuring 0.125 hectares was not handed over by the Defendants. One may well draw a presumption based on the contents of letter dated 28 April 2016, and the Trial Court has indeed done so, that possession of the land is still with the Defendants. However, if the nature of a transaction as well as development of vast tract of land is taken into consideration, it is possible that some of the landowners may still continue to claim possession of the land on which the actual execution of the work is yet to begin. Perusal of the joint Development Agreement would indicate that the possession of the land was handed over with the execution of the Agreement. In this regard, Clause-10 of the joint Development Agreement reads thus:

4.The Owners have on the execution of this Agreement delivered vacant and peaceful possession of the said property described in the schedule A-2 to the Developer's exclusive use and occupation for joint development as contemplated hereunder with the following/rights

- a) to enter upon the property described in the Schedule A-2;
- b) to put up or erect sign upon the property described in the schedule A-2 or any part thereof;
- c) to apply for and obtain sanctions of the building plans etc. for development of the Property on the said land in terms of the town-

ship project and/or utilize TDR and/or paid FSI/additional FSI that may be permitted by sanctioning Authority, obtain I.O.D, Commencement Certificate and all necessary permissions to construct building/ structures;

d) to commence, carry on and complete construction of the buildings/ structures by themselves or through any building contractor, sub-contractor or agents. As per the sanctioned plans with such modifications, amendments, alterations or variations that may be required to be made from time to time;

e) to amalgamate the said Property described in the Schedule A-2 with any properties described in Schedule A-1 & A-1a.

f) to sell/lease/grant on leave and license basis the flats/offices/ other premises in the building/s or structure to be constructed on the said Property on such terms and conditions as may be thought fit by the Developers and for that purpose, enter into such agreements/writings as the Developers may think fit and receive the price, income and profit there from and to appropriate the same to itself.

(emphasis supplied)

16. Thus, in addition to handing over vacant and peaceful possession of the land, the Defendants have also agreed to permit Plaintiff to execute various acts such as obtaining development permissions, commencement of construction, amalgamation etc. As pointed out hereinabove, a large tract of land has been jointly undertaken for development by Plaintiff and landowners, in their capacity as shareholders. When development of such a largescale project is undertaken, it is often not possible for a Developer to commence construction over the entire land in respect of which development agreements are executed. Therefore, it may be possible that some landowners continue to actually possess the land till the development work begins on that land. The question is whether such landowner can seek

injunction against the Developer after having agreed to the condition that possession of the land is handed over to the Developer ? Though there not be a straightjacket formula governing this situation, the answer to the question, in the facts of this case, will have to be answered in negative. In a case like present one, the initial phase of development may start from one side of the entire land parcel and there may be a landowner whose land is located at the extreme other end where the actual development may start after little longer time. While the developer company, in which the landowner is a shareholder, could take physical possession of and fence the entire land parcel, allows that landowner to cultivate the land till the development actually starts on that piece of land for few years after taking over possession under the development agreement. Whether the landowner later say that he is in possession and seek injunction against the developer? The answer to this question, to my mind, appear to be in the negative, considering the nature of relationship between the parties. Therefore in the peculiar facts of the case, it is difficult to hold that Defendants are in lawful possession of the land after having handed it over under the joint Development Agreement to Plaintiff. Even if they are in actual possession of the land, they cannot seek injunction against Plaintiff on account of delay in commencement of actual construction of their land.

17. In my view, the Trial Court has not properly appreciated the nature of arrangement which has taken place between the parties on account of execution of Joint Development Agreement. This is not a simple case of execution of Development Agreement between a landowner and a developer. The landowners are also shareholders in the Company, entitled to receive profits of the business venture. They have actually earned profits and utilized them. Their desire of allotment of vacant developed plot does not emanate out of the Joint Development Agreement. The same is in nature of demand for an advance towards profits to be receivable in future. Such advance cannot be sought as a matter of right nor the Defendants can wriggle out of the Joint Development agreement on account of Plaintiff's refusal to grant such advance profits.

18. The offer of refund of the entire amount received under the joint development agreement made by the defendants, may appear to be attractive in its first blush, but considering the nature of arrangement between the parties, the same is totally unfounded. Defendants have enjoyed possession of 4 flats and possibly of one shop all this time out of consideration payable under the joint development agreement. It is Plaintiff's case that grant of those flats and shop are at concessional rates. This is something which the Trial Court would consider while deciding the suit finally. But the offer for refund/deposit of purchase price of those

flats/shop at this juncture may otherwise not be financially sound. Apart from the financial implications arising out of time gap between receipt of benefits and offer of refund, more vital factor is the nature of arrangement between the parties. In my view, any permission granted in favour of defendants to rescind the agreement at this stage, would put the entire project in a serious jeopardy. Therefore, this is not a case of mere financial adjustments between the parties, where equities can be adjusted by directing Defendants to bring back the monies which they earned out of the joint venture. The entire land parcel is developed into a layout with amenities spread over in various portions of large tract of land. Obligations may have been created towards flats/plot purchasers under the provisions of Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) Act, 1963 and Real Estate (Regulation and Development) Act 2016. In such circumstances if a singular landowner is permitted to wriggle out of the joint development agreement by refunding the amount of benefits received under that agreement, same would cause severe prejudice to development of the project.

19. Therefore, if the test of irreparable loss is applied to the present case, the same would clearly go against the defendants and in favour of Plaintiff. The loss that Defendants cry at this juncture can always be taken care of at the time of final decision of the suit. If the Court ultimately find that the

demand of Defendants for allotment of developed plot is justified, it can always direct the Plaintiff to allot the same. Alternatively, the Court can compensate the Defendants in respect of any loss that they may suffer. However, for failure on the part of Plaintiff to meet the demand for allotment of plot (which does not even flow out of the joint development agreement), temporary injunction, of the nature sought for by Defendants, could not have been granted, which prevents Plaintiff from carrying out development on Defendants' land. Even the balance of convenience is heavily tilted in favour of plaintiff and against the defendants in that they have already gained and enjoyed benefits out of the development agreement for substantial period of time. Delay in institution of the counterclaim (which is in nature of a suit) would also assume importance and a major factor for refusal of injunction.

20. In *Dalpat Kumar vs. Prahlad Singh*, (1992) 1 SCC 719, the Apex Court has discussed the cardinal principles governing temporary injunction and has held as under:

“5...Satisfaction that there is a prima facie case by itself is not sufficient to grant injunction. The Court further has to satisfy that noninterference by the Court would result in “irreparable injury” to the party seeking relief and that there is no other remedy available to the party except one to grant injunction and he needs protection from the consequences of apprehended injury or dispossession. Irreparable injury, however, does not mean that there must be no physical possibility of repairing the injury, but means only that the injury must be a material one, namely one that cannot be adequately compensated by way of damages. The third condition also is that “the balance of convenience” must be in favour

of granting injunction. The Court while granting or refusing to grant injunction should exercise sound judicial discretion to find the amount of substantial mischief or injury which is likely to be caused to the parties, if the injunction is refused and compare it with that which is likely to be caused to the other side if the injunction is granted. If on weighing competing possibilities or probabilities of likelihood of injury and if the Court considers that pending the suit, the subject matter should be maintained in status quo, an injunction would be issued. Thus the Court has to exercise its sound judicial discretion in granting or refusing the relief of ad interim injunction pending the suit.”

21. The principles in relation to the matters concerning grant of interim relief are re-emphasised by the Apex Court in ***Union of India and Ors. v. M/s. Raj Grow Impex LLP and Ors.***: 2021 SCC OnLine SC 429 as follows: -

“194. In addition to the general principles for exercise of discretion, as discussed hereinbefore, a few features specific to the matters of interim relief need special mention. It is rather elementary that in the matters of grant of interim relief, satisfaction of the Court only about existence of prima facie case in favour of the suitor is not enough. The other elements i.e., balance of convenience and likelihood of irreparable injury, are not of empty formality and carry their own relevance; and while exercising its discretion in the matter of interim relief and adopting a particular course, the Court needs to weigh the risk of injustice, if ultimately the decision of main matter runs counter to the course being adopted at the time of granting or refusing the interim relief. We may usefully refer to the relevant principle stated in the decision of Chancery Division in *Films Rover International Ltd. v. Cannon Film Sales Ltd.* : (1986) 3 All ER 772 as under:—

“....The principal dilemma about the grant of interlocutory injunctions, whether prohibitory or mandatory, is that there is by definition a risk that the court may make the “wrong” decision, in the sense of granting an injunction to a party who fails to establish his right at the trial (or would fail if there was a trial) or alternatively, in failing to grant an injunction to a party who succeeds (or would succeed) at trial. **A fundamental principle is therefore that the court should take whichever course appears to carry the lower risk of injustice if it should turn out to have been “wrong” in the sense I have described.** The guidelines for the grant of

both kinds of interlocutory injunctions are derived from this principle.”

195. While referring to various expositions in the said decision, this Court, in the case of *Dorab Cawasji Warden v. Coomi Sorab Warden* : (1990) 2 SCC 117 observed as under:—

“16. The relief of interlocutory mandatory injunctions are thus granted generally to preserve or restore the status quo of the last non-contested status which preceded the pending controversy until the final hearing when full relief may be granted or to compel the undoing of those acts that have been illegally done or the restoration of that which was wrongfully taken from the party complaining. **But since the granting of such an injunction to a party who fails or would fail to establish his right at the trial may cause great injustice or irreparable harm to the party against whom it was granted or alternatively not granting of it to a party who succeeds or would succeed may equally cause great injustice or irreparable harm, courts have evolved certain guidelines.** Generally stated these guidelines are:

(1) The plaintiff has a strong case for trial. That is, it shall be of a higher standard than a prima facie case that is normally required for a prohibitory injunction.

(2) It is necessary to prevent irreparable or serious injury which normally cannot be compensated in terms of money.

(3) The balance of convenience is in favour of the one seeking such relief.

17. Being essentially an equitable relief the grant or refusal of an interlocutory mandatory injunction shall ultimately rest in the sound judicial discretion of the court to be exercised in the light of the facts and circumstances in each case. Though the above guidelines are neither exhaustive nor complete or absolute rules, and there may be exceptional circumstances needing action, applying them as prerequisite for the grant or refusal of such injunctions would be a sound exercise of a judicial discretion.”

(emphasis supplied)

22. If one compares the possible injuries that both the parties may suffer by grant/refusal of temporary injunction, to my mind it appears that the Plaintiff would suffer graver

injury by granting injunction in Defendants' favour and that Defendants would virtually suffer no injury by refusal of injunction, as they would continue to draw profits out of the venture as they have been doing for the past several years. Thus, on exercise of sound judicial discretion, it is difficult to hold that any case is made out by Defendants for grant of temporary injunction. In facts of present case, the rival claims of parties are such that refusal of temporary injunction in favour of Defendants would entail grant of the same in Plaintiff's favour.

23. In my view, therefore the order passed by the Trial Court on 3 October 2022 suffers from serious infirmities and is liable to be set aside. The Defendants have not made out any *prima facie* case for grant of temporary injunction against the Plaintiff. On the contrary, Plaintiff has made out a *prima-facie* case for grant of injunction against the Defendants. The Trial Court therefore ought to have allowed the application filed by Plaintiff and rejected the Defendants' application.

24. The Appeal accordingly succeeds and I proceed to pass the following order :

(i) Order dated 3 October 2022 passed by the 11th Joint Civil Judge Senior Division, Pune is set aside.

(ii) Plaintiff's application at Exhibit-5 stands allowed in terms of prayer clause (A) and (B) therein which read thus :

A. The Defendants or any persons claiming through them such as servants, agents, employees etc. may be restrained by an order of interim injunction from obstructing the Plaintiff from development of the suit property or disturb possession of the Plaintiff over suit property.

B. The Defendants may be restrained by an order of interim injunction from creating any third party interests in the suit property or to deal with the same in any manner.

(iii) The Defendants' application at Exhibit-34 stands rejected.

(iv) It is clarified that the observations made in this judgment are *prima-facie* and the Trial Court shall not be influenced by them while deciding the suit finally.

25. The Appeal is accordingly allowed. There shall be no orders as to costs.

26. With disposal of the Appeal, pending Interim Applications do not survive. The same shall also stand disposed of.

SANDEEP V. MARNE, J.

27. After the order is pronounced, the learned counsel for the Respondents seeks continuation of the order dated 3 October 2022 for a period of 8 weeks. The learned Counsel for the Appellant opposes the prayer. Considering the fact that the injunction was operational in favour of the Respondents since 31 October 2022, the said order is extended for a period of six weeks from today.

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SANDEEP V. MARNE, J.