

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

**APPEAL FROM ORDER NO. 297 OF 2014
WITH
CIVIL APPLICATION NO. 349 OF 2014**

Shri. Ghanshyam Pandharinath Mhatre & Ors. ... Appellants
V/s.
M/s. Trineti Developers & Ors. ... Respondents

Mr. S.G. Karandikar for the appellant/applicant.
Mr. Shreepad Murthy with Abhijeet Singh i/b Pinky Bhansali for
respondent no.1.
Mr. Vishesh Karta i/b Vidhi Partners for respondent no.2.

**CORAM : K. K. TATED, J.
DATED : 13/01/2015.**

PC.:

. Heard learned Counsel for the parties.

2 This Appeal from Order is preferred by original plaintiff challenging the order dated 11.12.2013 passed by the Civil Judge, Senior Division, Vasai below Exh.5 in Special Civil Suit No. 16 of 2013 rejecting appellant's application for injunction, restraining respondent original defendant from creating third party rights, title and interest in respect of suit property as well as developing the same.

3 It is the case of the Appellant original plaintiff that by Agreement for Sale dated 04.06.2010 they agreed to sell the agricultural land admeasuring 1H 23 R to the respondent original defendant for sum of Rs.8,61,00,000/-. Thereafter, they executed Sale Deed dated

12.10.2010 in respect of land admeasuring 1H 36 R. The learned counsel for the appellants submits that appellants original plaintiffs received total consideration of Rs.7,60,00,000/- remaining Rs.1,10,00,000/-. He submits that the respondents original defendants failed to pay remaining amount of Rs.1,10,00,000/- on the ground that they have not received the possession of the entire land as per Sale Deed dated 12.10.2010.

4 It is to be noted that when this Court called upon the learned counsel for the appellants to point out whether they carried out measurement of suit land through TILR and/or DILR to show that possession of entire land was handed over to the respondents original defendants. The learned counsel for the appellants submits “No”. He is not disputing that Respondents original defendants has carried out the measurement to ascertain exact area of land.

5 It is to be noted that it is specifically stated in the Sale Deed that Appellants original plaintiffs selling the property on the basis of Revenue documents. Considering this fact, it is to be noted that as on today the appellants do not have any documents to show that whether they handed over the entire land to the respondents original defendants or not as per Sale Deed dated 12.10.2010. Whether the appellants have handed over the entire land as per Sale Deed dated 12.10.2010 or not can be decided only after leading evidence. Considering this fact, I do not find any error in order passed by the Trial Court.

6 Hence, Appeal from Order stands dismissed.

7 Considering the facts and circumstances of the present case, hearing of Special Civil Suit No. 16 of 2013 is expedited.

8 In view of dismissal of Appeal from Order, nothing survives in the Civil Application. Hence, same is also dismissed as infructuous.

(K.K.TATED, J.)