

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.892 OF 2014
IN
FIRST APPEAL NO.313 OF 2014

Mrs.Sunita Krishnalal Bansal	
and	
Dinesh Lakhmichand Mittal..Respondent	.. Applicants
	(orig. Plaintiffs)
Versus	
Maruti Kisan Chavan & Anr.	.. Respondents
	(Orig.Defendants)

Mr.V.K.Bodhare i/b. A.M.Joshi for applicants
Mr.Vilas Tapkir for respondents

CORAM : SMT. V.A.NAIK &
C.V.BHADANG, JJ.

DATE : 27th February 2015.

P.C.

Heard the learned Counsel for the parties. Perused the contents of the application. Also perused the judgement of the trial court, by which the suit filed by the appellant- applicant for specific performance of contract was dismissed.

We find, on perusal of the judgement of the trial court that the applicant had initially agreed to purchase the property for a

consideration of Rs.1.15 Crores. The case of the applicant that subsequently the said consideration amount was reduced to Rs.57.50 lakhs is not accepted by the trial court. The trial court has further found on an appreciation of the evidence on record that the applicants have not proved their readiness and willingness to perform their part of the contract.

The trial court has ultimately dismissed the suit for specific performance of contract. In this background, though there was a temporary injunction operating in favour of the applicant in the trial court, it would not be in the interest of justice to grant an order of temporary injunction without imposing conditions on the applicant. The learned Counsel for the respondents rightly states that the valuable property of the respondents should not be locked for several years, during the pendency of the appeal, without putting the applicant to terms.

Hence, in the circumstances of the case, we restrain the respondents from alienating the suit property or creating third party interest therein during the pendency of the first appeal, subject to

the applicants depositing in this court a sum of Rs.1 Crore within a period of six weeks. If the amount is so deposited the same may be placed in a fixed deposit account of a nationalised bank during the pendency of the appeal. If the amount is not deposited within the stipulated period, the order of temporary injunction would not operate.

The Civil Application is disposed of in the aforesaid terms.

(C.V.BHADANG, J)

(SMT. V.A.NAIK, J.)