

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**APPEAL FROM ORDER NO. 895 OF 2015
WITH
CIVIL APPLICATION NO. 1087 OF 2015 IN A.O. NO. 895 OF 2015**

Rakesh Rohit Ashwa Prajapati ... Appellant/Applicant
Vs.
Eknath Dashrath Thakur & Ors. ... Respondents

Mr. Atul Rajadhyaksha, Senior Advocate a/w. Mr. Vagish Mishra, Mr. Nishant Tripathi i/b. M. Tripathi & Co., Advocate for appellant/applicant.
Mr. Pramod Sakhadeo, Advocate for respondent nos. 8 to 10.
Mr. R.S. Apte, Senior Advocate i/b. Mr. Saurabh Oka, Advocate for respondent no. 13.

CORAM: MRS. MRIDULA BHATKAR, J.
DATE : AUGUST 25, 2015

P.C.:

Admit. By consent, the Appeal is decided finally at the stage of admission.

2. In this Appeal from Order, the order dated 2nd May, 2015 passed by the Asst. Civil Judge Senior Division, Panvel rejecting the relief of temporary injunction is challenged. On the suit plot, as on today, a building is constructed by the respondents/original defendants and the building with 28 residential flats is almost ready. The appellant/original plaintiff has spent nearly Rs.5,55,000/- in the said property while entering into Agreement of sale with the original landlord and other persons. It is a suit for specific performance of 2011, hence the following workable arrangements are suggested to the parties, which is fairly accepted by

the all the parties without prejudice to their rights:

- a) Respondent no. 13 may construct and complete the building on the suit plot and obtain OC and other formalities subject to the outcome of the suit;
- b) Respondent no. 13 shall reserve 8 flats vacant out of 28 flats till the suit is decided finally;
- c) Respondent no. 13 shall not create any third party right and interest in any manner and shall not transfer or part with the possession of those 8 flats till the suit is finally decided;
- d) Respondent no. 13 is free to sell and deal with other 20 flats. There is no restriction in respect of transfer of remaining 20 flats;
- e) The trial Court to endeavour to conclude the suit on or before 10th May, 2016;
- f) Respondent no. 13 to file an affidavit before the trial Court stating the particulars of 8 flats, which are directed to remain reserve, within one month;
- g) The building is to be constructed as per the sanctioned plan.

3. The Appeal from Order stands disposed of. In view of this, Civil Application is also disposed of accordingly.

(MRS.MRIDULA BHATKAR, J.)