

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.2193 OF 2015
IN
FIRST APPEAL NO.715 OF 2015**

Hanif Gulamji Somji & Ors.
V/s.

...Applicants (orgn. Plaintiffs)

Purnima Agro Projects Pvt. Ltd. & Ors.

...Respondents.

Mr. Amit B. Borkar for the Applicants.

Mr. Rahul Shivaji Kadam for Respondent No.1.

Mr. Rajan Ravindra Deshpande for Respondent Nos.2 & 3.

CORAM : A.S.OKA &

V.L. ACHLIYA,JJ.

DATE : 21st SEPTEMBER, 2015

P.C.:

. Heard learned counsel appearing for the applicants, learned counsel appearing for the 1st respondent and the learned counsel appearing for 2nd and 3rd respondents.

2. The order dated 9/7/2015 passed by this court reads thus:

“ Rule returnable on 10th August 2015. The Advocates for respondent Nos.1 and 3 waives service. In addition to service of notice through Court, the Advocate for the Applicant to serve a private notice to the respondent No.2. If proper affidavit of service is not filed one week before the returnable date, ad-interim relief granted shall stand vacated without further reference to the Court.

By way of ad-interim relief, we restrain the respondents from creating third party interests in respect of the suit property.”

3. The learned counsel appearing for the applicants states that the applicants are willing to furnish solvent surety to the extent of the present market value of the suit property as per the ready reckoner.

4. Learned counsel appearing for the 1st respondent submits that furnishing of the solvent surety will be meaningless. The application is opposed by the learned counsel for the 1st respondent.

The applicants are the appellants in the First Appeal. The substantive First appeal has been admitted by this Court for final hearing. In this application, the prayer is for grant of interim relief restraining the respondents from creating third party rights. During the pendency of the suit, the applicants were protected by grant of interim injunction. To take care of the contingency of the applicants failing in the First Appeal, they have shown willingness to secure the loss which may be caused to the 1st respondent who is stated to be in possession of the suit property.

5. In our view, the applicants will have to furnish adequate security for an amount equivalent to the present market value of the suit property as per the ready reckoner to the satisfaction of the Trial Court as a condition for the grant of interim relief.

6. Therefore, we dispose of this application by passing the following order:

ORDER

- i) Ad-interim granted earlier on 9th July, 2015 shall continue as interim relief till the disposal of the First Appeal subject to the applicants furnishing adequate security for an amount equivalent to the present market value of the suit property as of today in accordance with the ready reckoner. The security shall be to the satisfaction of the Trial Court;
- ii) The said security shall be furnished within 4 months from today;
- iii) Before accepting the security, the Trial Court shall hear the respondents;
- iv) On failure of the applicants to furnish security in terms of this order within the stipulated period of four months as stated above, the interim relief shall stand vacated without further reference to this Court.
- v) Subject to what is stated above, the application is disposed of.

(V. L. ACHLIYA, J.)

(A. S. OKA, J.)

CERTIFICATE

“ Certified to be true and correct copy of the original signed
Judgment/Order.”