

FARAD CONTINUATION SHEET

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2860 OF 2013
IN
FIRST APPEAL NO. 1004 OF 2013

Office Notes, Office
memorandum of Coram,
appearances, Court's
orders or directions &
Registrar's orders.

Court's or
Judge's orders.

Mr. M.M. Sathye for the Applicant.

Mr. N.B. Jadhav for the Respondent Nos.1 and 2.

Mr. Chirag Mody i/by Mr.Ashokkumar Gopal Purohit for the Respondent No.3.

CORAM : A.S. OKA & A.P.BHANGALE, JJ.

DATED : 07 April, 2015

P.C.:

This is a Civil Application for seeking interim relief till the disposal of the First Appeal. A suit filed by the applicant for a declaration that the development agreement dated 17 April 2006 executed by and between the applicant and the 1st and 2nd respondents was binding on all the respondents. A declaration was sought that the agreement dated 11 June 2007 and a deed of

confirmation dated 26 September 2008 executed by and between the 1st and 2nd respondents on one hand and the 3rd respondent on the other hand are illegal and inoperative. A decree for perpetual injunction was also prayed for.

2) During the pendency of the suit, an application for injunction was made by the applicant. By order dated 12 April 2010, the learned Trial Judge directed the both the parties to maintain Status quo as on the date of filing of the suit till final decision in the suit. It is this order of the Status quo which is continued by this Court as an ad-interim relief in the present appeal.

3) It must be noted here that before the said order of Status quo dated 12 April 2010 was passed, the application for injunction filed by the applicant was disposed of on 25 August 2009 by granting injunction. Under the said order, a direction was issued to the applicant to deposit a sum of Rs.31,51,940/-. Accordingly, said amount was deposited by the applicant. As per the order of this Court dated 10 November 2009, the application for injunction was reconsidered and the said order dated 12 April 2010 has been passed. Under the

impugned decree dismissing the suit filed by the applicant, the learned Trial Judge permitted the applicant to withdraw the sum of Rs.30,51,940/- together with interest accrued thereon. The said amount has not been withdrawn by the applicant and in fact, an application made by the applicant for withdrawal of the said amount has been dismissed as unconditionally withdrawn by a separate order passed today.

4) The opposition of the learned counsel for the respondents is on the ground that the finding on all the relevant issues has been recorded against the applicant. The submission of the learned counsel appearing for 3rd respondent is that the said respondent is a Senior Citizen and though he has entered into the transaction after following due procedure, he has been dragged into a litigation for several years.

5) The substantive appeal against the impugned decree has been admitted. During the pendency of the suit, interim order of Status quo was in operation which was not challenged by the 3rd respondent. Moreover, a sum of Rs.30,51,940/- deposited by the applicant is still lying with the Trial Court.

6) Till the final disposal of the appeal, the suit property has to be maintained as it is. Therefore, ad interim relief granted on 14 August 2013 deserves to be continued till the final disposal of the appeal. Accordingly, we direct that the ad-interim relief granted on 14 August 2013 shall continue to operate as an interim relief.

7) The amount deposited by the applicant with the Trial Court shall be invested in a fixed deposit in any nationalized bank till the final disposal of the appeal. The amount shall not be permitted to be withdrawn without prior permission of this Court.

(A.P.BHANGALE, J)

(A.S.OKA, J)