

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.4590 OF 2013
IN
FIRST APPEAL NO.1746 OF 2013

Shree Sai Industries, Thane & Ors.

.... Applicants

V/s.

Power & Control Transformer Industries
Pvt. Ltd., Mumbai & Ors.

.... Respondents

Mr. S.T. Manek, i/by M/s. S.T. Manek & Co.,
for the Applicants.

Mr. Cyrus Ardeshir, i/by M/s. Madekar & Co.,
for the Respondents.

CORAM : ABHAY S. OKA &
DR. SHALINI PHANSALKAR-JOSHI, J.J.

DATE : 6TH APRIL, 2015.

P.C. :

1. Heard learned Counsel appearing for the Applicants and learned Counsel appearing for the Respondents.

2. Applicants are the original Plaintiffs. Suit filed by the Applicants for specific performance of an Agreement for Sale of suit immovable property has been dismissed by the impugned Judgment and Decree. The first prayer in this application is for an appointment of a Court Receiver.

3. By order dated 12th December, 2013, passed by this Court, which is an ad-interim order, the Applicants have been protected by directing the 1st Respondent not to alienate, encumber, transfer or create third party rights or part with possession of the suit plots. No case is made out for passing a drastic order of appointment of a Court Receiver.

4. First Appeal challenging the decree of dismissal of the Suit has been admitted. Therefore, the suit plots will have to be protected. In the circumstances, ad-interim relief granted on 12th December, 2013 deserves to be continued with the modification that, if the 1st Respondent desires to alienate, encumber, transfer or create third party rights or part with possession of the suit plots, the 1st Respondent can always apply to this Court for grant of appropriate leave.

5. Accordingly, the Civil Application is disposed of by passing following order :-

- (i) Prayer clause (a) is rejected.
- (ii) Ad-interim relief granted on 12th December, 2013 shall continue to operate as interim relief with the modification that, it will be open for the 1st Respondent to seek leave of the Court in the event he desires to alienate, encumber, transfer or create third party rights or part with possession of the suit plots.

[DR. SHALINI PHANSALKAR-JOSHI, J.]

[ABHAY S. OKA, J.]