

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELATE JURISDICTION
CIVIL APPLICATION NO.4246 OF 2014 IN
FIRST APPEAL NO.1466 OF 2014

Ms Radhika Vaidya i/b Sonal Doshi & Company for the applicant
Mr.Amit Borkar for the respondent

P.C.:

2 The first prayer for interim relief in this application is for restraining the respondent from creating any third party interests in respect of the suit property. The second prayer is for grant of stay to execution of the impugned Judgment and Decree. As far as the second prayer is concerned, as the substantive prayer for specific performance

made by the applicant has been rejected, there is no question of staying the execution of the Decree.

3 As far as the prayer clause (a) is concerned, similar relief of temporary injunction was claimed by the applicant during the pendency of the suit. As recorded in the order dated 5th May 2015, the relief was denied by the Trial Court to the Applicant. The learned counsel for the respondent has placed on record a copy of application at Exhibit-5 made by the applicant seeking relief of temporary injunction restraining the respondent from creating third party interests. Even a copy of the order dated 28th July 2010 by which the application was rejected is produced for perusal of the Court. Perusal of the present Civil Application shows that it is not the case made out in the application that the said order dated 28th July 2010 was challenged by the Applicant. Moreover, in the application, there is no pleading that there are any subsequent events which warrant consideration of the same prayer. Moreover, the fact that the Application made by the Applicant for temporary injunction before the Trial Court was rejected is not disclosed.

4 Therefore, the application for interim relief is rejected. However, it is made clear that if any transaction entered into by the respondent in relation to the suit property, the same shall be subject to the final order which may be passed in the First Appeal. If the respondent desires to create any third party rights in respect of the suit

property, before doing so, she shall give a notice in writing to the prospective purchaser of the pendency of this appeal.

(REVATI MOHITE DERE,J.)

(A.S.OKA,J.)