

JPP

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION***

APPEAL FROM ORDER NO. 233 OF 2010

with

CIVIL APPLICATION NO. 311 OF 2010

M/s. Swastik Developers & Anr. ... Appellants/Applicants.

V/s.

Mr. Kailash Baban Pathare and Ors. ... Respondents.

Mr. Jaydeep Deo for the Appellants/Applicants.

Mr. Kuldeep Pawar a/w. Sujay Gangal i/b. S.M. Gorwadkar for
Respondents 1 to 3 & 7.

CORAM : N.M. Jamdar, J.

27 June, 2016.

Oral Order :-

The Appellants challenge the order passed by the Civil Judge, Senior Division, Pune dated 11 November 2009 whereby the application taken out by the Appellants – Original Plaintiffs for temporary injunction was rejected.

2. The Appellants who are the Original Plaintiffs have filed a Suit seeking a decree of specific performance on the strength of an

agreement dated 10 January 2006. In this Suit an application for temporary injunction was taken out. The learned Civil Judge, after hearing both the sides, by the impugned order rejected the Application. Thereafter, the present Appeal is filed.

3. On 3 May 2010 when the Appeal came up on board, the learned Counsel for the Respondents took time and the parties were directed to maintain status-quo. Thereafter, by order dated 13 July 2010, it was extended. On 1 December 2010, after hearing both the sides, a detailed order was passed by this Court directing the Appellants to deposit a sum of Rs.1,77,47,382/- and upon such amount being deposited, ad-interim injunction was granted. Thereafter, the Appeal came up on board on 8 March 2011 when it was admitted and it was clarified that the pendency of the Appeal will not operate the stay of the proceedings and the Suit be disposed of preferably before the end of 2011. Thereafter, the Appeal was come up for final hearing.

3. The interim order granted by this Court is now operating for almost six years. Pursuant to the order passed by this Court, the Appellants have deposited substantial amount of Rs.1,77,47,382/-. The learned Counsel for the Appellants states that even Rs.90,00,000/- were deposited. Therefore, the entire consideration is now deposited in the Court. Considering this

position and that the ad-interim order is now operating for last six years and that the Appellants are ready to continue the deposit till the disposal of the Suit, which is invested, it will be appropriate if the ad-interim relief granted on 1 December 2010 is continued till the disposal of the Suit.

4. Accordingly, the Appeal is disposed of by the following order :-

(a) The injunction granted by order dated 1 December 2010 in this Appeal to continue till the disposal of the Special Civil Suit No. 1640 of 2007.

(b) The amount deposited by the Appellants in the Trial Court shall continue to be deposited/invested till the disposal of the Suit.

5. All contentions of the parties on merits are kept open. By order dated 8 March 2011 the Suit is already expedited. No costs.

6. Civil Application is disposed of accordingly.

(N.M. Jamdar, J.)