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

*APPEAL FROM ORDER NO. 863 OF 2014
with
CIVIL APPLICATION NO. 1038 OF 2014*

Amin Mahammad Mulani & Ors. ... Appellants/Applicants.

V/s.

Mr. Kishor Manikchand Oswal & Ors. ... Respondents.

Mr. Chetan Patil for the Appellants/Applicants.

Mr. Yuvraj Narvankar for Respondent 1.

CORAM : N.M. Jamdar, J.

28 July, 2016.

Oral Order :-

The Appellants challenge the order dated 4 April 2013 passed by the learned Civil Judge, Senior Division allowing the application filed by the Respondents – Plaintiffs for temporary injunction.

2. A Suit was filed by the Respondents – Plaintiffs for specific performance and for declaration that certain transaction executed by the Defendants be declared void ab-initio. In this Suit

an application was taken out for temporary injunction to restrain the Defendants including the Appellants – Defendants.

3. The learned Counsel for the Appellants submitted that on their own showing in the plaint, the Respondents – Plaintiffs have alleged that the Appellants have sold the property and therefore, there is no question of any grant of injunction. The learned Civil Judge, considering the various transactions to avoid any further complications, has directed the parties not to create any charge on the suit property. This order is in operation for last three years. If the Appellants have already sold the land as contended, then the Appellants are not prejudiced by the impugned order.

4. In the circumstances, it is not necessary to interfere with the use of discretion of the learned Civil Judge to maintain the suit property for effective adjudication in the suit.

5. It is open to the parties to make an application for early disposal of the suit. Keeping all contentions of the parties on merits open, the Appeal from Order is dismissed. The Civil Application is disposed of accordingly.

(N.M. Jamdar, J.)