

Application under Order 38 Rule 5 for the attachment of the property at Exhibit 25 was rejected and at the time of hearing of the said Writ Petition, the Hon'ble Single Judge of this Court by an order dated 10th September, 2015 has directed the respondent that he should not deal with the property in question, i.e. House No. 1106, Yashoda Niwas, Patil Mala, Tal. Hatkanangale, District Kolhapur. As the said order is in force, the appellant has good case on merits.

3. I have gone through the documents produced herein and also the order passed by the learned Civil Judge Senior Division, Kolhapur on 3rd May, 2014. It appears that the Agreement of Sale dated 9th May, 2012 which is the basis of this suit and for which as it is stated that Rs.60 lakhs were paid by the appellant to the respondent, the properties mentioned in the Agreement are Gat Nos. 924, 925, 936, 937 and thus the properties are the properties owned by Devasthan Inam and cannot be alienated. Under the circumstances, the property which is not the subject matter of the said agreement is to be considered as an independent property and no order can be passed in respect of the said property. The learned Judge has considered the fact and legal position rightly and the application under Exhibit 26 was rejected. I do not find any illegality in the impugned order. Hence, the Appeal from Order is summarily dismissed. Civil Application is also disposed of.

(MRIDULA BHATKAR, J.)