

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

***APPEAL FROM ORDER NO. 889 OF 2013
ALONG WITH
CIVIL APPLICATION NO. 1081 OF 2013***

Sou. Jayashri Baberao Jadhav,
R/at 1174, E-Ward,
New Railway Gate, Kolhapur.

... Appellant/
Applicant

v/s

Shri Chandrakant Annaso Patil & ors.

... Respondents

Mr.Sandeep Jinsiwale for the appellant/applicant.

None present for the respondents.

Coram: N.M. Jamdar, J.

Dated: 21 July 2016

P.C.:

The Appellant challenges the order dated 9 April 2013 passed by the District Judge, Kolhapur, refusing the grant of temporary injunction, pending the disposal of the Regular Appeal No.108 of 2013. The relief sought for was to restrain the Respondents from creating third party rights.

2 The suit for specific performance was dismissed. Thereafter, the Appellant has filed an appeal in which an application for

temporary injunction is taken out. The learned District Judge, after considering the material on record, came to the *prima facie* conclusion that the land is under reservation and the reservation has not been lifted by the State Government and, therefore, *prima facie*, the agreement cannot be executed. Therefore, in view of this observation made by the learned Judge while disposing of the application for temporary injunction and that for the last three years there is no protection in favour of the Appellant, it is not necessary to interfere with the impugned order. The proceedings being filed for specific performance, the Specific Relief Act itself provides an adequate remedy if third party rights are created.

3 No further orders are required to be passed in this appeal.

4 The appeal from order is accordingly disposed of along with the civil application.

(N. M. Jamdar, J.)