

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

APPEAL FROM ORDER NO. 74 OF 2009

Sanjay Sakharam Kambale & ors. ... Appellants

v/s

Sudhakar Tukaram Bidkar & ors. ... Respondents

Mr.M.P.Liptay i/by P.G.Chavan for the appellants.

Mr.M.J. Jamdar for Resp. Nos.1 to 5.

Coram: N.M. Jamdar, J.

Dated: 21 June 2016

ORAL ORDER:

The Appellants challenge the order passed by the learned civil Judge, Senior Division, Pune, dated 10 October 2008, rejecting the application filed by the Appellants/Plaintiffs for temporary injunction in the Special Civil Suit No.1872 of 2007. The suit is filed by the Appellants seeking decree of specific performance. In this suit, the Appellants filed an application seeking to restrain the Respondents/Defendants from causing obstruction and interference in the possession of the Appellants and not to create third party rights.

2 The learned Civil Judge considered the rival contentions and

came to the conclusion that the Appellants have not given any documentary evidence as regard the partition or regarding delivery of possession to the extent of 23 Ares of land. The learned Civil Judge also found that the agreement is not an agreement for sale but development agreement, which was neither stamped nor registered.

3 In this appeal, notice was issued on 18 February 2009 and parties were directed to maintain status-quo in respect of the suit property.

4 The suit filed by the Appellants is pending. The Appellants have sought decree of specific performance. At the time of issuance of notice, this Court had directed the parties to maintain status-quo in respect of the suit property. This order has continued for the last five and half years without any breach of peace. In the circumstances, it will not be appropriate to disturb the status-quo which will create further complications at this stage of proceeding of the suit.

5 The appeal is accordingly disposed of by continuing the interim order of status-quo granted by this Court on 18 February 2009, till the disposal of the suit. It will be open to the parties to make a request to the learned Civil Judge to take the suit early for disposal. All contentions of the parties on merits are kept open.

(N. M. Jamdar, J.)