pmw

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.188 OF 2015
WITH
NOTICE OF MOTION NO.1018 OF 2013

Pipe and Tube Products … Appellant
Versus
Mapletree Property Pvt. Ltd. and others … Respondents

Mr. Sanjay Jain a/w Mr. Tushar A. Goradia for the Appellant.
Mr. Arshil Shah i/by D.M. Legal Associates for the Respondent No.1.

CORAM : A.S. OKA &
G.S. KULKARNI, JJ.

DATE : 10th MARCH, 2016

P.C.

1 Heard the learned counsel appearing for the Appellant. The Appellant is the first Defendant. The first Respondent is the original Plaintiff in a substantive suit filed by the first Respondent for specific performance of agreement for sell of the suit property which is a land described in Exhibit 'A' to the Plaint. By the impugned order, the learned Single Judge has granted a limited interim protection to the first Respondent till the final disposal of the Suit. The learned Judge has restrained the present Appellant from creating any third party rights and from inducting any third party in possession of the suit property. The first Respondent had prayed for a wider relief of appointment of Court Receiver in respect of the suit property apart from the relief of

temporary injunction. The learned Single Judge has denied the prayer for appointment of the Court Receiver and has granted a limited temporary injunction which will ensure that status quo in respect of the suit property is maintained till the disposal of the suit. The learned counsel appearing for the first respondent states that the said respondent has not challenged the impugned order.

2 This is an appeal against the discretionary order of temporary injunction passed by the learned Single Judge for protecting the property till the disposal of the substantive suit for specific performance. The scope of interference with such orders in appeal is very limited.

3 The submissions of the learned counsel appearing for the Appellant are on merits of the suit. A query was made by the Court to the learned counsel appearing for the Appellant as to whether the Appellant intends to create third party rights during the pendency of the suit, he states on instructions that the Appellant intends to create third party rights. Hence, there was every justification for the learned Judge to pass the interim order for preventing creation of third party interests in respect of the suit property. We see no perversity in the impugned order. There is no reason to interfere with the discretionary order

passed by the learned Single Judge. We may note here that ad-interim order in terms of prayer clause (b) which is ultimately granted was in force from 31st July, 2013 till the impugned interim order was passed. There is no merit in the Appeal and the same is accordingly dismissed. Pending Notice of Motion does not survive. However, all contentions on merits of the suit are kept open.

(G.S. KULKARNI, J) **(A.S. OKA, J)**