

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

**APPEAL NO. 384 OF 2009
IN
NOTICE OF MOTION NO. 4943 OF 2007
IN
SUIT NO. 3573 OF 2007**

M/s. Singhvi Constructions and Ors. ... Appellants.

V/s.

Dattaram S. Khanolkar and Ors. ... Respondents.

None present for the parties.

**CORAM : V. M. KANADE AND
MRS.SWAPNA JOSHI,JJ.**

DATE : 31st AUGUST, 2016

P.C. :

1 None appears on behalf of Appellants and Respondents.

2 The Appellant is challenging the order dated 6th February, 2009 passed by the learned single Judge of this court in Notice of Motion No. 4943 of 2007.

3 The brief facts relevant for the purpose of deciding this Appeal are as under :

4 That the Respondent (Original Defendant) is the owner of suit property and a Memorandum of Understanding was executed between the Plaintiff and the Defendant, wherein the Defendant agreed to give land to the Plaintiffs, who were developers by profession. Out of the agreed amount, Rs. Fifteen lakhs were paid as a first installment. The MOU was neither registered nor a stamp duty was paid on the said document. The Plaintiff filed a Suit and in that Suit he took out a Notice of Motion, seeking interim reliefs. The learned single Judge has observed that, firstly, the Memorandum of Understanding has not been a registered document and, secondly, it was not stamped. Thirdly, the learned single Judge has observed that the property was owned by the several persons and only few persons have signed the said document. Taking into consideration all the facts and circumstances of the case, the learned single Judge was pleased to dismiss the Notice of Motion.

5 We concur the view taken by the learned single Judge. The Appellant being aggrieved by the said order has preferred this Appeal. In the Appeal, the Appellant took out a Notice of Motion bearing No. 3292 of 2009, wherein by order dated 02.02.2010, this court directed the Appellant (original Plaintiff) to deposit an amount of Rs. 40 lakhs and subject to the said amount being deposited, ad-interim relief was granted in terms of prayer clause (a) of the said motion. The Appellant

deposited the said amount in this court. Since the said interim relief is continued from the date of filing of the Appeal, we direct that the order passed by the learned single Judge is modified to that extent and thus the order passed in Appeal on 02.02.2010 is continued during the pendency of the Suit

6 Appeal is accordingly disposed of.

(MRS.SWAPNA JOSHI,J.)

(V. M. KANADE,J.)

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