

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

**APPEAL FROM ORDER NO. 824 OF 2016
WITH
CIVIL APPLICATION NO. 1029 OF 2016**

Dattatraya Narayan Konde & Ors. ..Appellant
v/s.

Devyani Tambe & Ors. ..Respondents

Mr. Sachin Khandagale for the Appellant
Mr. N.M. Wable i/b. Mr. S.R.Ghnvat for the Respondent no.1 and 2.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 23rd JUNE, 2017.**

P.C.

1. The appellants herein have challenged the Order dated 5th October, 2015 whereby the learned 7th Joint Civil Judge, Senior Division, Pune, has granted the application for injunction filed by the aforesaid respondent in Special Civil Suit No. 1211 of 2014 and thereby restrained the appellants from alienating or creating third party interest in the suit property till final disposal of the suit.
2. Heard the learned Counsel for the respective parties.
3. It is seen that the respondents herein had filed a suit for specific

performance of agreement dated 25th November, 2013. The appellants had filed a written statement and reply, and contested the suit as well as the application for injunction on several grounds. It is not in dispute that the appellants were not present on the date the application for injunction was fixed for hearing. The learned trial Judge therefore decided to proceed with the matter and disposed of the application without hearing the appellants.

4. Considering the various grounds raised by the appellants in the written statement as well as in the reply, in my considered view, opportunity needs to be given to the appellants to address all the issues before the trial Judge. Hence the order.

i) Order dated 5th October, 2015 passed by the learned 7th Joint Civil Judge, Senior Division, Pune is set aside. The matter is remanded to the trial Judge to decide the application for interim injunction afresh after hearing both the sides.

ii) The learned trial Judge shall decide the said application as expeditiously as possible and in any event within a period of three months from the date of receipt of this order.

iii) The appellants shall pay costs of Rs.5000/- (Rupees Five

Thousand Only) to the respondent. The cost shall be deposited before the trial Court within a period of four weeks from today.

iv) The appellants shall not create any third party interest in respect of the suit property till disposal of the application for interim injunction.

(ANUJA PRABHUDESSAI, J.)