

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 431 OF 2015
with
CIVIL APPLICATION NO. 571 OF 2015

K. Malkesh & Co. (Exports) ..Appellant

v/s.

Jayantibhai Popatlal Patel @ Bhalala
& Ors. ..Respondents

Mr.Surel Shah a/w. Ms. Nita Solanki i/b. Kiran Jain & Co. for the Appellant

Mr. Ashok Gawai i/b. Mr. Arvind Bhalerao for the Respondent nos.1 to 3.

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

P.C.

1. Heard the learned Counsel for the appellant and the learned Counsel for the respondent.
2. The appellant herein had challenged the order dated 20th January, 2015, whereby the learned trial Judge dismissed the application for injunction filed by the aforesaid appellant.
3. The appellant is the owner of the suit property and had entered into an oral agreement with the respondents to sell the suit property,

more particularly described in paragraph 4 of the plaint. It appears that there was a dispute between the appellant and the respondents over the said transaction, and the same led to filing of suit for declaration and cancellation of the said agreement. The application for interim relief sought by the appellant was rejected by the learned trial Judge.

4. Aggrieved by the said order, the appellant has preferred this petition. In the course of hearing, the learned Counsel for the respondent, on instructions makes a statement that the respondent shall not create third party right in respect of the suit property till the disposal of the suit. Statement is accepted.

5. The application for temporary injunction filed by the appellant, merely seeks to restrain the respondent from creating third party interest pending the suit. In my considered view, in the light of above statements, the grievance of the appellant stands redressed. Hence the appeal can be disposed of on the basis of the said statement, without going into the merits of the matter.

6. Under the circumstances, the appeal stands disposed of in the light of the statement made by the learned Counsel for the

Respondent. In view of the disposal of the appeal, the civil application also stands disposed of.

(ANUJA PRABHUDESSAI, J.)