

Santosh

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.424 OF 2017**

Abdul Jabbar Abdul Razak Khokar	...Appellant
<i>Versus</i>	
Zaibunissa Mohamed Eqbal Bhati & Anr	...Respondents

None *for the Appellant.*

**CORAM: G.S. PATEL, J
DATED: 12th July 2017**

PC:-

1. Circulation was taken on 10th July 2017 for listing on a supplementary board today saying that there was a great urgency.

2. There is not.

3. The Appeal is directed against a refusal of an ad-interim relief on 4th November 2015. The Plaintiff claimed that the 1st Defendant ought to be restrained from collecting rent. There was also a prayer that Defendants Nos.1 and 2 be restrained from transferring their share.

4. Even at the ad-interim stage the Trial Court found that there was a Sale Deed in favour of 1st Defendant. The Plaintiff's case was one of misrepresentation, undue influence and inadequate

consideration. The inadequacy of consideration could not have been a factor at the ad-interim stage and the Trial Court quite correctly rejected that submission. As to the question of misrepresentation and undue influence, the Trial Court observed that there was a registered conveyance in favour of 1st Defendant and such pleas of misrepresentation and undue influence required evidence and a fuller consideration at the trial. The Court also correctly observed that if the Defendant No.1 collected rent or even if there was a transfer of shares there would be no prejudice, simply because if the Plaintiff succeeded on merits, all of these safeguards and reparations could be ensured under an appropriate order. Thus, the Trial Court found neither a *prima facie* case, nor irreparable prejudice or the balance of convenience in the Plaintiff's favour.

5. The impugned order calls for no interference.
6. In any case none present for the Appellant.
7. The Appeal is dismissed.
8. It is clarified that no application for restoration will be entertained without an accompanying order of significant costs.

(G. S. PATEL, J.)