

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

**APPEAL FROM ORDER NO.939 OF 2016
WITH
CIVIL APPLICATION NO.1174 OF 2016
IN
APPEAL FROM ORDER NO.939 OF 2016**

Sou. Anjali Ramesh Pawale & Anr. ...Appellants

Versus

Smt. Kausallya Hiralal Gaikwad & Ors. ...Respondents

...

Mr. J. Shekhar with Mr. Akshay Kapadia i/b. M/s. J. Shekhar and Co.
for the Appellants.

Mr. Rajesh A. More for the Respondent No.20.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : 12th JUNE, 2017.

P.C. :

Heard the learned counsel for the Appellants. The Appellants have challenged the order dated 16th June, 2015 whereby the learned Judge dismissed the application for injunction seeking to restrain the Respondents herein from transferring, alienating and in any manner creating third party interest in the suit property more particularly described in para No.1 of the Plaint, till the final disposal of the Appeal.

2. The grievance of the Appellants is that the Respondent Nos.1 and 2 who are the original owners of the property had entered into an agreement with them in respect of the suit property. By the said agreement, the original owners had agreed to transfer the suit property in favour of the Appellants for Rs.1.80 crores. The original owners had also authorised the Appellants to obtain necessary permission from the Divisional Commissioner, Pune Division, Pune since the land was tenanted land. The grievance of the Appellants /Plaintiffs is that some time in the year 2010, the Respondent Nos.1 and 2 entered into an agreement with the Respondent Nos.20 and 21 in respect of the same property and that they also authorised the Respondent Nos.20 and 21 to obtain permission from the Divisional Commissioner, Pune Division, Pune. Aggrieved by the said action, the Applicants/Plaintiffs filed a suit for injunction and has also sought interim relief seeking to restrain the original owners from transfer, alienating or creating third party interest in respect of the suit property.

3. The learned Judge has dismissed the application for interim relief mainly on the ground of delay. Shri Shekhar, the learned counsel for the Appellants has submitted that the Appellants were not aware of the transaction between the Respondent Nos.1 and 2 and the

Respondent Nos.20 and 21. He has submitted that the Appellants learnt about the same on reading the public notice and immediately thereafter filed the suit alongwith the application for interim relief.

4. The averments in paragraph 24 of the plaint prima facie reveal that the original owners had entered into an agreement with the Respondent Nos.20 and 21 way back in the year 2010 and that in July-2010 they had permitted the said Defendants to obtain the requisite permission. The averments in paragraph 24 further reveal that the Applicants /Plaintiffs were aware about the said transaction and that they had issued notice to the Respondent Nos.1 and 2 on 2nd September, 2010. The pleadings in paragraph 24 of the plaint negate the contention that the Appellants were not aware of the transaction till the date of publication of notice.

5. The Appellants were well aware about the transaction despite which they did not seek such relief for a period of three years. The conduct of the Appellants in invoking the jurisdiction of the Court after inordinate delay was sufficient ground to decline the discretionary relief of injunction. The impugned order is neither perverse nor arbitrary. Hence, does not warrant interference.

6. Under the circumstances, and in view of discussion supra, the Appeal is dismissed.

7. The application stands disposed of in view of dismissal of the Appeal.

(ANUJA PRABHUDESSAI, J.)