

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 1031 OF 2015
WITH
CIVIL APPLICATION NO. 1260 OF 2015
IN
APPEAL FROM ORDER NO. 1031 OF 2015**

Mr.Akrur Babanrao Kudale

.. Appellant

Vs.

Mr.Raju Namdev Kapare & Ors.

.. Respondents

Mr.Rahul S. Kadam, Advocate for appellant.

None for respondents.

CORAM : A.S. CHANDURKAR, J.

DATE : 26TH NOVEMBER 2018

P.C.

1 The appellant, who is the original plaintiff, is aggrieved by the order passed by the trial Court below Exh.5 dated 12th March 2015 whereby the application moved by the plaintiff seeking to restrain the defendant No.1 from alienating the suit property has been rejected.

2 It is the case of the plaintiff that on 3rd September 2010, he had entered into an Agreement to purchase the suit property, i.e., Gat No.563/1 from the defendant No.1. An amount of Rs. 66 lakhs which is towards part consideration was also paid to the defendant No.1. As the defendant No.1 has failed to execute the Sale Deed, the Suit for specific performance came to be filed.

3 The trial Court, while refusing to grant the interim relief as prayed, found that even prior to the agreement in question, there was an order

dated 22nd April 2010 passed by the Civil Court in the Suit filed by the wife of the defendant No.1 against the said defendant No.1. By that order, the defendant No.1 was restrained from alienating the suit property.

4 After hearing the learned counsel for the appellant, it is found that the impugned order is dated 12th March 2015 and there is no protection granted to the appellant by this Court. *Prima-facie*, the factors taken into consideration by the trial court while passing the impugned order do not appear to be contrary to the law. Interests of justice would be, however, met if the proceedings in the Suit are expedited.

5 In view of above, the following order is passed :-

O R D E R

(i) The trial Court is directed to decide Civil Suit No. 1582 of 2013 expeditiously preferably by the end of December 2019.

(ii) It is clarified that the trial Court should not be influenced by any observations made in the impugned order as well as the present Appeal while deciding the Suit on merits.

(iii) The respective contentions of parties are kept open.

(iv) The Appeal from Order is disposed of on aforesaid terms. All pending Civil Applications accordingly stand disposed of.

(A.S. CHANDURKAR, J.)