

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

**CIVIL APPLICATION NO. 2655 OF 2018
IN
FIRST APPEAL NO. 860 OF 2018**

Shri. Pravin Shashinath Warde & Ors. ... Applicants
V/s.
Shri. Santhosh Vasudeo Warde & Ors. ... Respondents

Mr. S.V. Pitre for the Applicants.
Mr. Chetan Kapadia a/w Mr. Ishwar Nankani a/w Mr. Huzefa Khokawala a/w Ms. Janaki Garde I/b M/s. Nankani & Associates for the Respondent Nos. 18 and 19.

**CORAM : K. K. TATED, &
N.J.JAMADAR, JJ.
DATE : 25th OCTOBER, 2018**

P.C.:

. Heard learned Counsel for the parties.

2 By this Civil Application, the Applicant original Plaintiff is seeking an order of injunction restraining Respondent Nos. 18 and 19 from disturbing the possession of the Applicant in respect of suit property at Virtsaral, Taluka Alibag, District Raigad, the details of which as stated in prayer clause (b) of the Civil Application.

3 It is to be noted that, it is admitted fact that during the pendency of the suit, there was no ad-interim relief in favour of the applicant/Plaintiff.

4 It is to be noted that in the present proceedings, the Applicant

Plaintiff had filed Special Civil Suit No. 98/2012 in the court of Civil Judge, Senior Division Raigad at Alibag for cancellation of sale deed dated 31.01.2017 executed by Defendant Nos.1 to 17 in favour of Defendant Nos.18 and 19. The Trial Court, by its judgment and decree dated 22.03.2018 dismissed the suit. The Trial Court, at the time of dismissing the suit framed issue Nos.5 to 7 which read thus:

“5. Do Plaintiffs prove that sale-deed executed by defendant nos. 1 to 17 in favour of defendant nos. 18 and 19 of suit property is illegal?

6. Whether plaintiffs are entitle for the relief of declaration as sought?

7. Whether plaintiffs are entitle to the relief of perpetual injunction as prayed?”

5 Considering the reasons given by the Trial Court at the time of deciding issue Nos.5 to 7, *prima facie*, it seems that the Applicant has not made out any case to issue an injunction order against the Respondent Nos.18 and 19 from creating any third party right, title and interest in respect of the suit property.

6 In view of the fact, we do not find any reason to entertain the Civil Application.

7 Hence, Civil Application stands rejected.

(N.J.JAMADAR, J.)

(K.K.TATED, J.)