

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

**APPEAL FROM ORDER NO.465 OF 2018
WITH
CIVIL APPLICATION NO. 612 OF 2018
IN
APPEAL FROM ORDER NO.465 OF 2018**

Pandurang Anand Rayate	.. Appellant
Vs.	
Parag Babasaheb Bamne	.. Respondent

Mr.Rahul Shivaji Kadam, Advocate for appellant.

Mr.Sudhir Vinayak Sadavarte for respondent.

**CORAM : A.S. CHANDURKAR, J.
DATE : 4TH DECEMBER 2018**

P.C.

- 1 Heard finally with the consent of the parties.
- 2 The appellant is the original plaintiff who is aggrieved by the order passed by the Appellate Court refusing to grant any interim relief that was sought by the appellant before the Appellate Court.
- 3 The appellant had filed a suit for cancellation of agreement that was entered into with the defendant for sale of the suit property. Further reliefs of compensation and perpetual injunction were also sought. The defendant filed the counter-claim seeking relief of execution of the sale deed in his favour. The trial Court dismissed the suit but decreed the counter-claim and directed the plaintiff to execute the sale deed of the ground floor of the

suit property in favour of the defendant. That decree is challenged before the Appellate Court.

4 Before the Appellate Court, the appellant prayed that the defendant be restrained from disturbing his possession or from alienating the suit property. The Appellate Court rejected that application. Hence this appeal.

5 I have heard the learned counsel for the parties. It is seen that the trial Court while decreeing the counter-claim has directed the plaintiff to execute the sale deed of the ground floor property in favour of the defendant. Admittedly, till date, the decree passed in the counter-claim has not been executed. Hence, question of title vesting with the defendant for being alienated does not arise. It is also found that possession of the suit property was already handed over to the defendant. In these facts, the impugned order passed by the Appellate Court does not call for any interference.

6 Though it is submitted on behalf of the appellant that he intends to move the Appellate Court to seek stay of the direction for executing the sale deed as per the decree in the counter-claim, the interests of justice would be served if the proceedings of the pending appeal before the Appellate Court are expedited.

7 Accordingly, by directing the Appellate Court to decide Civil Appeal No.389 of 2017 expeditiously by the end of June 2019 on its own merits without being influenced by the observations made in this order, the Appeal from Order is disposed of.

8 Pending civil applications also stand disposed.

(A.S. CHANDURKAR, J.)