

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

**APPEAL FROM ORDER NO. 394 OF 2019
WITH
CIVIL APPLICATION NO. 468 OF 2019**

Anwar Ishaq Shaikh & Ors.	...	Appellants
V/s.		
Sudhir Kantilal Doshi & Ors.	...	Respondents

Mr.Y.S. Jahagirdar, Senior Advocate a/w. Mr.Ramchandran Narayanan and Mr.Tejas Shah i/b. Narayanan and Narayanan for Appellants.
Mr.N.A. Ghatte for Respondent No.10.

CORAM : A.S. GADKARI, J.

DATE : 12th December 2019.

PC. :

1] By the present Appeal, the appellants have impugned Order dated 14th March 2018 passed in Notice of Motion No.4277 of 2017 in Suit No.9230 of 1993 (High Court Suit No.2890 of 1993), thereby dismissing the said Motion filed by the appellants.

2] Heard Mr.Jahagirdar, learned Senior Counsel for the appellants and Mr.Gatte, learned Counsel for the respondent No.10. Perused the entire record annexed to the appeal.

3] The record indicates that, the appellants have instituted a suit for specific performance of the agreement dated 30th April 1991, whereby the

respondent Nos.1 to 6, i.e. the partners of the respondent No.7, had agreed to sell suit property to the appellants. That the respondent No.7 thereafter transferred the suit property in favour of the respondent Nos.8 and 9, who in due course of time further transferred it in favour of the respondent No.10 by way of a registered Conveyance Deed dated 18th February 2014.

4] The record further indicates that, the appellants on the earlier occasion had filed Notice of Motion(s) in this Court for interim relief in the said suit against the respondent Nos.1 to 9 which were rejected by this Court by distinct Orders. After transfer of the suit from the High Court to the City Civil Court, as per the pleadings of the appellants, the respondent Nos.8 and 9 further transferred the suit property in favour of the respondent No.10 by way of registered Conveyance Deed dated 18th February 2014. As noted hereinabove and in view of the change in circumstances, the appellants filed the present Notice of Motion before the Trial Court. The Trial Court by its impugned Order has dismissed the said Motion.

5] At the outset, it is to be noted here that, the agreement dated 30th April 1991, executed between the appellants and the respondent Nos.1 to 7, is an unregistered and inadequately stamped document. It is executed on a stamp paper of Rs.10/-. That in due course of time, the respondent Nos.8 and 9 by a registered Conveyance Deed dated 18th February 2014 has further transferred the suit property in favour of the respondent No.10 and as of date, the

respondent No.10 is in possession of the suit building consisting of tenants. The record further indicates that, though the said conveyance was registered on 18th February 2014, the appellants have filed the present motion on 11th December 2017 i.e. much belatedly after laps of about 3 years.

6] In view thereof, no *prima-facie* case is made out for grant of injunction in favour of the appellants. Balance of convenience does not lie in favour of the appellants. No harm or irreparable loss would cause to the appellants if injunction is not granted in their favour.

7] After perusal of record, it clearly appears that, the Trial Court has not committed any error either in law or on facts while passing the impugned Order. I find no merits in the Appeal.

Appeal is accordingly dismissed.

In view of dismissal of the Appeal, nothing survives in the Civil Application and is accordingly disposed off.

[A.S. GADKARI, J.]