

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

**APPEAL FROM ORDER NO. 55 OF 2019
WITH
CIVIL APPLICATION NO. 142 OF 2019**

Shri Mohanprakash Kanara Choudhary & Ors. ...Appellants
vs.
Shri Dattatraya Dharma Thakur & Ors. ...Respondents

Mr.P.S. Dani, Senior Advocate with Prashant D. Patil for Appellants.
Mr.Jayesh D. Talekar for Respondent No.1.
Mr.D.V.Sawant i/b. Sushant Ghadge for Respondent Nos.2 to 4.

CORAM : S.C. GUPTE, J.

DATE : 14 OCTOBER 2019

P.C. :

Heard learned Counsel for the parties.

2 This appeal from order challenges an interim order passed by the court of Civil Judge, Senior Division, Panvel on 19 April 2018. The impugned order was passed on an interlocutory application of the Appellants (original Plaintiffs). By the impugned order, the interim application of the Appellants was rejected by the trial court.

3 *Prima facie*, it appears that the trial court, whilst rejecting the interim application of the Appellants, on the ground that there was a prior agreement for sale by the Defendants in favour of the third party, has not considered whether the agreement with the third party is *prima facie* genuine and creates any rights in favour of the third party transferee.

3 Accordingly, the appeal deserves to be admitted. The appeal is, accordingly, admitted. Pending the hearing and final disposal

of the appeal, there will be an interim injunction restraining the Respondents from creating any further rights in respect of the suit property described in the plaint.

4 The Civil application is disposed of accordingly.

(S.C. GUPTE, J.)