

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

APPEAL AGAINST ORDER NO.37 OF 2017

Jugalkishore Khemchand Agrawal and anr.

-vs-

Nasreen Naj Shabeen Ahmed and anr.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri Zeeshan Haq, Advocate for appellants.

CORAM : A.S.CHANDURKAR, J.

DATE : January 04, 2019

In this appeal the order passed by the appellate Court dated 17/04/2017 rejecting the application filed by the appellants so as to restrain the respondents from alienating or creating third party rights in the suit property is under challenge.

The appellants are the original plaintiffs who have filed suit for specific performance of the agreement dated 04/05/2005. The trial Court partly decreed the suit. While refusing to grant relief of specific performance it directed refund of the earnest amount. Being aggrieved the plaintiffs have challenged that judgment by filing an appeal under Section 96 of the Code of Civil Procedure, 1908. In that appeal the appellants sought temporary injunction so as to restrain the respondents from alienating the suit property. The trial Court observed that no order of temporary injunction

was operating during pendency of the suit. As there was no apprehension expressed that third party rights were likely to be created, the said application was rejected.

After hearing the learned counsel for the appellants it is seen that the impugned order is dated 17/04/2017. The appeal as filed is of the year 2016. Interests of justice would be served if the said appeal itself is directed to be decided expeditiously on its own merits. In these facts therefore, it is not found necessary to enter into the merits of the adjudication by the appellate Court.

Accordingly the following order is passed :

The appellate Court shall decide R.C.A. No.572/2016 expeditiously and preferably by the end of April 2019. The said appeal shall be decided on its own merits without being influenced by the observations made in the impugned order dated 17/04/2017. All contentions of the parties are kept open.

Appeal Against Order is disposed of in aforesaid terms. No costs.

JUDGE