

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

**APPEAL FROM ORDER NO.2 OF 2021 WITH
CIVIL APPLICATION NO.2050 OF 2021**

Shakuntalabai Arvind Tilange ... **APPELLANT**

VERSUS

Kamarrajja Abdul Habeeb Khatik & anr. ... **RESPONDENTS**

.....
Mr. S.V. Natu, Advocate for appellant
Mr. S.S. thombre, Advocate for respondent No.1.
.....

CORAM : R. G. AVACHAT, J.

DATE : 11th AUGUST, 2021

PER COURT :

Heard. The appeal has been preferred against the order dated 14/1/2020, passed below application Exh.5 for temporary injunction, restraining the appellant from alienating or creating third party interest in respect of the suit property. The application was preferred pending appeal, Regular Civil Appeal No.6/2019. Learned counsel for the appellant submits that, the appellate Court only gave general propositions of law on the basis of which injunction is not granted. The learned Judge, however, did not whisper about merits of the matter. The suit for specific performance of agreement of sale has

been dismissed, granting decree for refund of earnest money.

2. Perused the impugned order passed by the trial Court. It appears that, the agreement for sale has been proved. The trial Court, however, found the suit property to have not been matching with the description given in the agreement for sale. Since the appeal being continuation of suit, and execution of the agreement for sale having been proved before the trial Court, this Court is not inclined to interfere with the impugned order, whereby the appellant herein has been restrained from creating third party interest pending the appeal.

3. The appeal is, therefore, disposed of, maintaining the said order, with a direction to the appellate Court to decide the appeal within a period of twelve months from the date of receipt of a copy of this order.

4. In view of disposal of the appeal, Civil Application stands disposed of.

(R. G. AVACHAT)
JUDGE

fmp/-