

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO. 1208 OF 2021

IN

SUIT NO. 111 OF 2021

Mir Mozam Ali ... Applicant/Plaintiff

vs.

Mohammed Yusuf ... Respondent

Mr. Rakesh K. Agarwal for the Applicant / Plaintiff.

Mr. Akshay Jadhav for the Respondent.

CORAM : A. K. MENON, J.

DATED : 16th JUNE, 2021.

[THROUGH VIDEO CONFERENCE]

P.C. :

1. This interim application seeks interim relief in terms of appointment of Court Receiver, High Court, Bombay of suit premises which is a residential flat which the plaintiff states he has agreed to purchase from the defendant. The reason for making this application is alleged failure of the defendant to register the agreement of sale that has been entered into and pay balance purchase price of Rs. 5,00,000/-. In the meanwhile Mr. Agarwal in support of the interim application seeks an injunction restraining the defendant from creating third party rights or parting with possession of the suit flat.

2. At the hearing today Mr. Jadhav appearing on behalf of the defendant states that he has been instructed to enter appearance. Mr. Jadhav undertakes to file Vakalatnama on or before 19th June, 2021 in the registry. Mr. Jadhav submits on instructions of the defendant that the defendant is willing to transfer the flat, put the plaintiff in possession and execute the agreement, if not already executed and register the same. Mr. Agarwal states that his client is willing to bear the stamp duty and pay the balance amount of Rs. 5,00,000/- on or before 30th June, 2021. Mr. Jadhav is agreeable to the aforesaid course of action.

3. In the circumstances both learned counsel state that they will file consent terms in the suit. In the meanwhile by consent interim application is taken up for final disposal. In view of the statement made by the counsel and on instruction of clients I pass the following order :

(i) Pending hearing and final disposal of the suit there will be an interim order in terms of prayer clause (b) in relation to the suit flat being flat no. 601 described in Exhibit A to the plaint. This is however subject to the plaintiff paying a sum of Rs. 5,00,000/- on or before 30th June, 2021.

(ii) In the event the plaintiff fails to pay the sum or any part thereof this order shall stand vacated.

(iii) In the event the amount is paid it is also agreed between the parties that the agreement for sale duly stamped at the cost of the plaintiff shall be executed and registered before the appropriate Sub-Registrar within three

weeks of payment being made by the plaintiff to the defendant and the defendant shall handover possession of the flat to the plaintiff.

(iv) In the event the agreement is not so registered or possession not handed over the Court Receiver, High Court, Bombay shall stand appointed Receiver of the Suit Flat no. 601, 6th floor, Homestead Co-operative Housing Society Limited, Balamiya Lane, Mahim, Mumbai-400 016 without further reference to Court.

(v) Interim Application disposed in the above terms.

(vi) Liberty to apply after consent terms are signed.

(A. K. MENON, J.)