

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

**APPEAL FROM ORDER NO.186 OF 2022
WITH
INTERIM APPLICATION NO.1213 OF 2022
IN
APPEAL FROM ORDER NO.186 OF 2022**

Kishor Laxmikant Somaiya ...Appellant

Versus

Yogesh Laxmikant Somaiya and
Ors. ...Respondents

...

Mr. Atul S. Singh for the Appellant.
Mr. Jagdish N. Jayale for Respondent No.1.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 29th JUNE, 2022.

P. C. :-

1. The Appellant herein has challenged the order dated 22/12/2021 whereby the learned Judge has dismissed the notice of Motion No.2409 of 2019 in S.C. Suit No.1733 of 2019.

2 The Appellant had filed the notice of motion apprehending that Respondent No.1 would create third party rights in respect of flat No.17 in the first floor of wing No.H, Nutan Nagar Premises, Co-operative Society Ltd., Bandra (west). The Appellant had also sought appointment of receiver.

3. The learned Judge has held that the Appellant-Plaintiff has failed to make out any case for appointment of Receiver and has also rejected interim relief sought by the Plaintiff seeking to restrain the Respondent from creating third party rights.

4. In the course of the hearing, learned counsel for the Appellant states that he is not pressing for relief of appointment of Receiver. The only relief pressed for is to restrain the Respondent from alienating or transferring the suit premises in favour of any third party save and except entering into leave and license agreement.

5. Learned counsel for the Respondent states that the Respondent No.1 has already executed leave and license agreement in favour of Sarvesh Pande, pursuant to which, he is in possession of the suit premises. Learned counsel for Respondent No.1, under instructions makes a statement that Respondent No.1 shall not alienate or transfer the suit premises in favour of any third party, save and except leave and license agreement. The said statement is accepted as an undertaking to the Court.

6. In the light of the said statement and with consent, appeal stands disposed of.

7. Civil /Interim application (s), if any, stand (s) disposed of in view of disposal of the appeal from order.

(SMT. ANUJA PRABHUDESSAI, J.)