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

**APPEAL FROM ORDER NO.169 OF 2022
WITH
INTERIM APPLICATION NO.1138 OF 2022**

Sylvester John Alex ..Appellant
Versus
M/s. Value Constructions S.R.A. & Ors. ..Respondents

Ms. Anita Castelino i/by Priscilla S. Nadar a/w Sanali Samuel a/w
Royce Samuel for the Appellant.
Mr. Shashikant Surana i/by Madhur Surana for Respondent No.1

CORAM : NITIN W. SAMBRE, J.

DATE : 21th November, 2022

PC.

1. On 16th January, 2008, two deeds were executed by the appellant, one i.e. agreement of sale and another deed of conveyance.

2. It is claimed that the deed of conveyance was fraudulently got executed and as such, challenge is raised to that effect in suit initiated by the appellant. In the said suit, the Notice of Motion is taken out thereby seeking relief of injunction which is rejected by the Court below. As such, this appeal against the order.

3. The contentions are, if the recitals in the agreement of

sale and deed of conveyance are appreciated, the terms of the agreement of sale contemplate the discharge of certain obligations by the respondents/defendants such as on handing over of developed property to the extent of twelve flats and other benefits. It is claimed that it was never intention of the appellant to execute the conveyance and the said fact was duly brought to the notice of the revenue authorities in the pending mutation entry proceedings about existence of only agreement of sale and not deed of conveyance. It is further claim that the property was never covered under the provisions of the Slum Act and still the respondents intend to have a scheme styling the same to be slum land.

4. Counsel for the respondents would urge that once a registered conveyance deed is executed, the Court below was justified in recording findings that the appellant has failed to demonstrate *prima-facie* case.

5. I have appreciated the said submissions.

6. The case of the appellant is based on an unregistered agreement of sale dated 16th January, 2008 so as to question the legality of the conveyance deed on the very same date. It is difficult to accept the submission of counsel for the appellant that for evaluating validity of the deed of conveyance, the recitals in the agreement of sale are required to be appreciated as the document

i.e. conveyance deed is in continuation to that of the agreement of sale as could be apparent from the contents thereof. Apart from above, the appellant has acknowledged receipt of complete consideration of Rs.65,00,000/- (Sixty Five Lakhs).

7. The fact that the appellant has not sought the specific performance of the agreement of sale but has questioned the legality of the conveyance deed sufficiently prompts Trial Court, so also this Court to dismiss the claim for grant of temporary injunction, as the conveyance apparently was executed after receipt of valid consideration. In that view of the matter, since the appellant has failed to demonstrate the *prima-facie* case, the Court below was justified in passing the order impugned.

8. The Appeal from Order as such stands dismissed.

9. In view of dismissal of appeal, interim application also stands disposed of.

[NITIN W. SAMBRE, J.]