

Ashwini

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 2003 OF 2020
WITH
CIVIL APPLICATION NO. 214 OF 2019
IN
FIRST APPEAL NO. 882 OF 2017**

Mahalaxmi Resorts & Ors	...Applicants
<i>In the matter between</i>	
Mahalaxmi Resorts & Ors	...Appellants
<i>Versus</i>	
Abhay Gangadhar Pagdhare	...Respondents

**Mr Ram Apte, Senior Advocate, i/b Vinay M Bhate, for
Applicant/Appellants in IA/2003/2020.
Mr Puneet Chaturvedi, i/b Sanjay S Gawde, for the Respondent.**

ASHWINI
HULGOJI
GAJAKOSH

Digitally signed
by ASHWINI
HULGOJI
GAJAKOSH
Date: 2022.03.24
18:58:35 +0530

**CORAM G.S. Patel &
 Madhav J. Jamdar, JJ.
DATED: 23rd March 2022**

PC:-

1. The Interim Application seeks that an order of 3rd February 2020 passed by the learned Registrar Judicial-II of this Court refusing to accept some securities offered by the Applicant be set aside.

2. On 28th November 2017, a Division Bench of this Court directed the Appellants to deposit 50% of the decretal amount in eight weeks, and, for the remaining 50% allowed the Appellants to furnish solvent security to the satisfaction of the Registrar (Judicial).

3. The cash deposit was made. The Respondents withdrew it.

4. The Applicants offered as security what appeared to be the suit properties themselves on the footing that the Suit itself was only for damages and was a money claim although that claim arose out of transactions relating to these lands. Before Mr Kachare, the Registrar Judicial, it seems to have been argued that the Appellants were the Constituted Attorneys of the Respondent (the original Plaintiff) and that the Appellants sold these very plots to the sureties in question. It was then argued that “thus” the sureties became absolute owners of the properties.

5. The Plaintiff said that all the Sale Deeds were fake, no consideration at all passed and no title had therefore validly passed. The Respondents also said that all sureties were conveniently close relatives of the Appellants. The learned Registrar found that the plots are part and parcel of the disputed Development Agreement. The Special Civil Suit No. 73 of 2007 seeking to enforce the Development Agreement was decreed. But the Development Agreement itself was in dispute. Consideration for the alleged transfer of plots L 10 to L 13 was not proved to have been received.

6. It is not possible for us to go into this exercise of ascertaining whether good and sufficient title, that is to say clear and marketable title to the land, had in fact passed to the sureties.

7. We dispose of the Interim Application by leaving it open to the appellants to place before the Registrar Judicial-II such solvent security as they are able, including these very lands. This security will be to the satisfaction of the Registrar. We clarify this to mean that the Registrar must be persuaded to record his satisfaction having applied his mind, and recording his reasons that there is clear, marketable and unclogged title to the lands being offered as security. We give the Appellants this further opportunity since Mr Apte urges that the title to the sureties' land is indeed clear and marketable.

8. Of course it is always open to the Appellants, if they are convinced that they have good, marketable and clear title to the lands to sell the lands and deposit the cash instead in lieu of the balance 50% of the decretal amount.

9. We grant the Appellants time until 17th June 2022 to furnish solvent security as aforesaid to the Registrar Judicial. In the meantime, and especially since the Respondent has already withdrawn the amount deposit, i.e. 50% of the decretal amount, the Respondent is not to put the decree into execution for the balance. If solvent security is not furnished by 17th June 2022, this temporary interim injunction will cease to operate without further reference to

the Court. It goes without saying that the Registrar Judicial will afford a hearing to both sides.

10. List the matter on 24th March 2022.

(Madhav J. Jamdar, J)

(G. S. Patel, J)