

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.446 OF 2022
WITH
INTERIM APPLICATION NO.2884 of 2022
In
APPEAL FROM ORDER NO.446 OF 2022

Bombay Isle Developers Pvt.Ltd and ors .. Appellants

Versus

Mr.Shadaab Shabbir Patel .. Respondent

...

Mr. Rishikesh Soni i/b Raveena S. Yadav for the appellant.

Mr. Akhilesh Dubey with Amit Dubey, Varad Dubey and
Rajaram Kuleniya i/b Law Counsellors for the respondent.

CORAM: BHARATI DANGRE, J.

DATED : 29th APRIL, 2022

P.C:-

1 The present Appeal raise a challenge to ad-interim relief being granted in favour of the plaintiff in S.C. Suit No. 687/2022 filed for specific performance. The plaintiff, by taking out a Notice of Motion sought a relief for restraining the defnedants of his representative or any one acting through him, from creating any third party interest.

2 On 25/3/2022, by recording a specific contention of the plaintiff that he has paid a sum of Rs.50 lakhs to the defendants and booked the flat and the defendants agreed to

execute the registered agreement of sale in favour, and have failed to do so, recorded the submission of the Advocate for the defendant, was recorded to the effect that third party interest have already been created as the suit premises are mortgaged with Tata Finance and the proceedings are initiated pursuant to the loan being advanced. The defendants therefore, pleaded that it is not possible for them to create any further third party interest and hence, there is no need for ad-interim order.

3 The submissions, convinced the Court to grant ad-interim relief dated 25/3/2022, which is still in operation. Interest of justice would be better served to the parties and the City Civil Court, Dindoshi, Mumbai is requested to conclude the hearing of the Notice of Motion which is scheduled on 29/6/2022 or within a short span of time thereafter, and in any case, on or before 31/7/2022.

With the aforesaid order being passed, the AO stands disposed off.

Needless to state that since I have not touched the merits of the matter, the rival contentions of the parties are kept open.

In view of the disposal of AO, Interim Application No.2884/2002 do not survive and is disposed off.

(SMT. BHARATI DANGRE, J.)