

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

WRIT PETITION NO.5460 OF 2022

Kum. Priya Prabhakar Adsul and Ors.

..Petitioners

Versus

Sanjay Vishnu Raut and Ors.

..Respondents

Mr. Vijay D. Patil i/by Yogesh Patil, for the Petitioners.

Mr. Navneetha Krishnan i/by Nava Legal, for the Respondent No.1.

CORAM : NITIN W. SAMBRE, J.

DATE : 4th MAY, 2022

PC.

1. The order impugned is passed by the Appellate Court whereby the petitioners/defendants to a suit for specific performance are restrained from creating third party interest or alienating the suit property.

2. Mr. Vijay Patil, learned counsel for the petitioners would urge that though the suit is pending for last more than eighteen years, there is no temporary injunction in operation. Since the title stood vested in the petitioners by virtue of registered conveyance, the Court below erred in granting temporary injunction.

3. Counsel for the respondents/plaintiffs would urge that there exist a registered agreement of sale in which possession is handed over to the respondents/plaintiffs. According to him, the suit for specific performance is pending and as such, Court below

was justified in passing order restraining petitioners from creating third party interest in regard to the suit property.

4. I have appreciated the submissions.

5. It appears that the registered agreement in favour of the respondents/plaintiffs is prior in point of time than the conveyance/sale-deed executed in favour of the petitioners.

6. The said fact has prevailed before the Court below in restraining the petitioners from creating third party interest in relation to the suit property.

7. It appears that till the suit for specific performance based on registered agreement is decided, in my opinion, the Court below was justified in passing equitable order of injunction. No case for interference in the order impugned is made out.

8. The petition as such stands dismissed.

9. In case, if there is any ambiguity with regard to interpretation of the order of injunction passed in exercise of power under Order XLIII Rule 1(r) of the CPC, it shall be open for the petitioners to agitate the same before the Appellate Court on the issue of possession.

[NITIN W. SAMBRE, J.]