

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

WRIT PETITION NO. 3022 OF 2017

Murarikrishna Chunilal Joshi

....Petitioner

V/S

Shidojirao Anandrao Desai-
Nipanikar and Ors.

....Respondents

...

Mr. Kush M. Lahankar i/by. Shrikrishna R. Ganbavale, for the Petitioner.

Mr. Rahul P. Walvekar, for the Respondents.

CORAM: SANDEEP V. MARNE, J.

DATE : 16 JUNE 2023.

P.C.:

1. In this petition, petitioner challenges judgment and order dated 15 October 2016 by the District Judge-3, Kolhapur in Misc. Civil Appeal No.40/2016 by which the order passed by the trial Court on 8 December 2015 rejecting application for temporary injunction has been confirmed.

2. The suit is filed by the Plaintiff seeking specific performance of the Agreement of Sale dated 31 December 2014. In his Suit, plaintiff filed application for temporary injunction to restrain the Defendants from carrying out construction in contravention of the Agreement of

Sale dated 31 December 2014. Petitioner was declined temporary injunction by the trial Court on 8 December 2015. Petitioner's appeal also came to be rejected by the District Court on 15 October 2016. In short, there has been no temporary injunction in favour of the Plaintiff since filing of the suit in the year 2015.

3. The learned Counsel appearing for the Respondent would contend that on account of non-grant of any temporary injunction in favour of the plaintiffs, Defendants have carried out the construction and have completed the same. It is further submitted that the Planning Authority has already granted Occupancy Certificate in respect of the completed construction.

4. In that view of the matter, no purpose would be served by deciding the merits of the contentions raised in the present Appeal. The learned Counsel appearing for the Petitioner submits that the Petitioner-Plaintiff is willing to take possession of the altered nature of the suit property alongwith the construction thereon. This is something which would be decided by the trial Court and no opinion is expressed on the same. The Writ Petition is accordingly disposed off.

(SANDEEP V. MARNE, J.)