

Sayali Upasani

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

APPEAL FROM ORDER NO.- 290 OF 2023

WITH

INTERIM APPLICATION NO. 3685 OF 2023

WITH

APPEAL FROM ORDER NO.- 291 OF 2023

WITH

INTERIM APPLICATION NO. 3686 OF 2023

B.U. Bhandari M and M Realtors LLP and ...Appellants
Others

Vs.

Mrs. Smita Shreeram Soni ...Respondents

Mr. V.A. Sugdare i/b Mr. Suryajeet P. Chavan, for Appellants
in AO-290/23 and AO-291/23.

Mr. Girish R. Agarwal, for Respondents.

CORAM:- N. J. JAMADAR, J.

DATED:- 26th APRIL, 2023

PC:-

- 1) Heard the learned Counsel for the parties.
- 2) This Appeal is directed against an order below Exhibit-5 on an application for interim injunction in Special Civil Suit No. 1064 of 2021 dated 6th December, 2022, whereby the learned

Civil Judge, Senior Division, Pune, was persuaded to restrain the appellants-defendants from alienating the suit property or any part thereof or from carrying out any construction on the suit property and from creating any third party interest in the suit property till the final disposal of the suit.

3) Perused the impugned order.

4) The learned Civil Judge has proceeded on the premise that no written statement was filed on behalf of the defendant Nos. 1 to 3 and there was no challenge to the application for interim injunction.

5) The impugned order, however, does not indicate that the learned Civil Judge considered the justifiability of the prayer for interim reliefs on the parameters which govern the grant of temporary injunction.

6) The learned Counsel for the appellants submits that the appellants-defendants wish to contest the application for temporary injunction on merits.

7) In the aforesaid view of the matter, it would be appropriate to remit the matter back to the learned Civil Judge for a decision afresh after providing an opportunity of hearing to the parties in accordance with law. However, since the impugned order is in

operation from 6th December, 2022, it is necessary to continue to the same as an ad-interim order till the learned Civil Judge decides the application on merits.

8) Hence, the following order.

ORDER

- i) The Appeal stands partly allowed.
- ii) The application for temporary injunction (Exhibit-5) stands remitted to the Court of Civil Judge Senior Division, Pune.
- iii) The learned Civil Judge shall decide the application afresh after providing an opportunity of hearing to the parties in accordance with law as expeditiously as possible.
- iv) The impugned order passed on 6th December, 2022, shall, however, continue to operate as an ad-interim order till the decision of the said application.
- v) In view of the disposal of the Appeal, the Interim Application also stands disposed.

[N. J. JAMADAR, J.]