

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

**INTERIM APPLICATION NO. 2644 OF 2020
IN
FIRST APPEAL NO. 46 OF 2021**

Shri Premchand @ Prem Tejumal
Chichrya @ Gurdasani and Others ... Applicants

versus

Smt. Lajwanti Radhakishan (Sindhi)
Chichrya and Others ... Respondents

.....

Ms.Minal Chandnani with Mr.Zoheb Merchant for the Applicants.

Mr.G.S.Godbole, Senior Advocate with Mr.Kaustubh Thipsay,
Mr.Rahul Soman and Mr.Shon D. Gadgil for Respondent No. 6.

Mr.Ajit Hon for Respondent No. 7.

Mr. Sandeep D. Shinde for Respondent No.8.

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**CORAM : NITIN JAMDAR AND
MANJUSHA DESHPANDE, JJ.**

DATE : 6 OCTOBER 2023

P.C. :

Heard the learned Counsel for the parties.

2. This Interim Application is taken out by the Applicants-Plaintiffs for two prayers. First prayer is for stay of the implementation and execution of the impugned order and the second prayer is for an injunction to restrain the Respondents from completing the construction work and not to create third party rights. As regards the first prayer is concerned, the same cannot be

granted as the Suit was dismissed.

3. As regards the second prayer is concerned, an additional affidavit is filed on behalf of Respondent No.6 wherein it is placed on record as under :

“3. I say that the Appellant filed the Suit in 2016, and the Ld. Judge of the Trial Court did not grant any interim reliefs in favour of the Plaintiff in the Suit. Ultimately, the Suit was dismissed by Judgment and Order dated 16.11.2019 (impugned in the present First Appeal). The Appellant has filed this Interim Application under reply for interim reliefs, inter alia of injunction from alienating, disposing of, or creating third party rights in the Suit Property.

*4. I say that I have constructed a building being a ground plus 14 storeys on the Suit Property, I say that I have sold 38 residential till 2019 to bona fide purchasers for valuable consideration, under registered Agreements, and the purchasers from me have purchased these tenements either on the basis that no interim reliefs have been granted in favour of the Plaintiff in this Suit, or the Suit having been dismissed on 16.11.2019. I say that the first tenement in the building was sold in or around April, 2019, and since then, 38 units have been sold by me. Hereto annexed and marked **Exhibit “A”** is a list containing the various Agreements executed by me with various purchasers, along with Serial numbers under which these agreements are registered. I say that in these circumstances, and for these reasons also, the Appellant is not entitled to any interim or ad-interim reliefs. I crave leave to refer to and rely upon the registered agreements*

executed by me in favour of various purchasers, if necessary”.

List of flat owners has also been annexed. It is also pointed out that there was no injunction during pendency of the Suit and till date in this Appeal, meanwhile, the above development has taken place. Therefore, the relief as sought for by the Applicants cannot be granted.

4. The Interim Application is accordingly rejected.

(MANJUSHA DESHPANDE, J.) (NITIN JAMDAR, J.)