

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

**INTERIM APPLICATION NO.1021 OF 2023
IN
INTERIM APPLICATION NO. 3094 OF 2022
IN
ANTICIPATORY BAIL APPLICATION NO. 2523 OF 2022**

Samir A. Thakker ... Applicant/
Intervenor

In the matter between :-

Jaydeep S. Gadkari ... Applicant
v/s.

The State of Maharashtra Respondent

Mr. Sunny Punamiya for the Applicant in IA/1021/2023.

Mr. Shrikant Yadav, APP for the State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 06th APRIL, 2023.

P. C. :-

. This is an Application filed by the Complainant for initiating proceedings under section 2(c) of Contempt of Courts Act against the Applicant in Anticipatory Bail Application No.2523 of 2022 for making false statement and securing interim relief.

2. Learned counsel for the Applicant states that the Applicant in the said ABA, has made a false statement before this Court which has been

recorded in the order dated 16/11/2022. A perusal of the order reveals that the Applicant in ABA No.2523/2022 had tendered an affidavit and in paragraph 9 of the said affidavit, he had made a statement to the following effect :-

“ 9. Nevertheless, I again reiterate that I am ready to hand over the possession of a Penthouse on the top most floors i.e. Floor Nos.15 and 16 to the Complainant upon the completion of the construction work i.e., by April 2023 or return the money to the Complainant by April, 2023 in accordance with MOFA Act and rules thereof; subject to any orders passed by the Hon’ble Bombay High Court in Suit No.887/2014 and RERA Appellate Authority in the suit and complaint filed by the complainant. ”

3. The order records that the learned counsel for the Intervenor had expressed an apprehension that the pent-house was already sold to someone else. However, he was unable to make any positive statement to that effect. This Court observed that in case Intervenor is desirous to accept the offer recorded in paragraph 9 of the affidavit, he is at liberty to do so and in case, he wants to contest the Application, he shall lay his grounds before the Court as to why he does not want to go by the statement made in the affidavit.

4. Learned counsel for the Intervenor concedes that till this date, he has not made any statement before the Court that the Intervenor is ready to accept the offer contained in paragraph 9 of the affidavit. He further concedes that the Intervenor has not spelt out the grounds before this Court as to why he does not want to go by the statement made in the affidavit.

5. Order dated 16/11/2022 only records that the Applicant in ABA had made an offer to give possession of the premises or to return the money. The said offer was not accepted by the Intervenor. No order was passed by this Court on the basis of the offer given by the Applicant in the ABA. The contention of the learned counsel for the Intervenor that the Applicant in ABA was granted interim protection in view of the statement made in the affidavit, is devoid of any merits as the order dated 16/11/2022 does not indicate so. The decisions relied upon by the learned counsel for the Intervenor, are therefore not applicable to the facts of the present case.

6. The Application is totally devoid of merits and is accordingly dismissed.

PREETI
H JAYANI

(SMT. ANUJA PRABHUDESSAI, J.)