

AGK

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

**WRIT PETITION NO.9890 OF 2022
WITH
INTERIM APPLICATION NO.3398 OF 2022**

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Sayyed Gulam Nabi Ilyas, Proprietor
of M/s. G.N. Constructions ... Petitioner

V/s.

Atka Builders Pvt. Ltd., through its
director Sudha Doshi & Ors. ... Respondents

Mr. V.R. Tripathi for the petitioner/applicant.

Mr. Prathamesh Bhosle i/by MNSQ Legal for the
respondents.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 18, 2023

P.C.:

- 1.** The petitioner/original plaintiff is challenging orders passed by the Courts below seeking injunction against the defendants not to create third party rights in relation to the suit building.
- 2.** According to the petitioner, based on development agreement executed by defendant Nos.1 and 2, they constructed the suit building. Said fact is denied by the defendants. The Courts below have recorded a finding that the defendants have constructed the property.
- 3.** The petitioner being plaintiff, it is for the petitioner to prove

his prima facie case. No documents are produced on record by the petitioner to indicate that he has constructed the suit building. In absence of such proof, the Courts below were justified in rejecting the application for temporary injunction. In my opinion, therefore, there is no perversity in the orders passed by the Courts below.

4. The writ petition is dismissed. No costs.
5. In view of dismissal of the writ petition, the interim application also stands disposed of as infructuous.
6. Hearing of the suit is expedited.

(AMIT BORKAR, J.)