

AGK

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

WRIT PETITION NO.11830 OF 2023

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Anjana Balaso Tekwade & Anr.

... Petitioners

V/s.

Lilabai Namdev Salunkhe & Anr.

... Respondents

Mr. Shriram S. Kulkarni i/by Mr. Devidas J. Jadhav for
the petitioners.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 26, 2023

P.C.:

1. The challenge in this writ petition is to the order of rejection of an application for temporary injunction in a suit for specific performance.

2. Both the Courts below have recorded concurrent finding of fact. It appears that the agreement in question is of the year 1983 and the suit is filed in the year 2019. Therefore, in my opinion, there is no reason to interfere with the concurrent finding of fact recorded by the Courts below; however, prima facie adjudication on the issue of limitation by the Courts below shall not influence the Trial Court while deciding the issue of limitation on merits.

3. It is made clear that the Trial court shall decide the issue of limitation on its own merits uninfluenced by the observations made in the impugned order. It is also made clear that in case the

defendants' create third party rights in the suit property, the Trial Court shall be intimated about the details of creation of such third party rights including names and addresses of third parties.

4. With this clarification, the writ petition is dismissed. No costs.

(AMIT BORKAR, J.)