

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

**APPEAL FROM ORDER (ST) NO.26163 OF 2023
WITH
INTERIM APPLICATION NO.15794 OF 2023
WITH
INTERIM APPLICATION (ST.) NO.26166 OF 2023**

Iftikar Mehmud Maste & Ors.

... Appellants

versus

Kulbir Singh & Ors.

... Respondents

...

Mr. Aditya P. Kharkar for Appellant.

...

CORAM: SANDEEP V. MARNE, J.

DATE : 03 OCTOBER 2023.

P. C.:

This appeal is filed challenging order dated 15 March 2023 passed by 2nd Joint Civil Judge Senior Division, Panvel rejecting Appellants' application for grant of temporary injunction. Appellants have instituted suit against the Defendants seeking declaration that they are entitled to 1/2 undivided share in the suit property with defendant No.2. Also challenged is the deed of confirmation dated 05 March 2003 executed by the Defendant No.2 in favour of Defendant No.1. Plaintiffs have also challenged the sale deed dated 10 January 2022 executed by Defendant No.1 in favor of Defendant No.3. There appears to be a

typographical error in prayer clause 13(3) of the plant in which sale deed dated 10 January 2022 has shown to have been executed between Defendant No.1 and defendant No.2. However in the body of the plant it is stated that the sale deed dated 01 January 2022 is executed by Defender No.1 in favor of Defendant No.3. Be that as it may. Property has admittedly changed the hands in the year 2003 in favor of Defendant No.1 who has transferred the same in favor of Defendant No.3 on 10 January 2022. Appellant-plaintiffs have admittedly filed the suit claiming 1/2 share in the suit property. Whether their challenge to the deed of confirmation dated 05 March 2003 would survive the objection of limitation is something which would be decided at the time of trial of the suit. As of now it can safely be stated that appellants-plaintiffs could not make out any *prime facie* case for grant of temporary injunction. The trial Court has rightly rejected the application for temporary injunction. No error can be traced in the order dated 15 March 2023. The appeal is accordingly rejected. Upon rejection of the appeal, the Interim Applications does not survive and the same are also disposed of.

SANDEEP V. MARNE, J.

**KISHOR
VISHNU
KAMBLE**

Digitally signed
by KISHOR
VISHNU
KAMBLE
Date:
2023.10.05
14:24:30
+0530