

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

**APPEAL FROM ORDER NO.897 OF 2023
WITH
INTERIM APPLICATION NO.16683 OF 2023**

Mr. Vinod Govind Ranawade And Others ... Appellants
Versus
Mr. Sagar Omprakash Agarwal And Another ... Respondents

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Mr. Viraj Hake, for Appellant.
Mr. Prasad Dhakephalkar, Senior Advocate a/w. Mr. Sachin
Dhakephalkar, Mr. Mahesh Subramanyam.
Mr. Harishchandra D. Chavan, for Intervener.

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CORAM : SANDEEP V. MARNE, J.
DATE : 03 NOVEMBER 2023.

ORDER :

1. Challenge in the present Appeal is to the Order dated 02 September 2023 passed by the Civil Judge, Senior Division, Pune granting Application at exh.5 for temporary injunction filed by the Plaintiffs / Respondents. The Trial Court has restrained Appellants / Defendants from creating third party interest or to deal with the suit property until final disposal of the suit.

2. Plaintiffs have instituted Special Civil Suit No.2344 of 2023 in the Court of Civil Judge Senior Division, Pune seeking specific

performance of the agreement to sale dated 02 March 2020. It is the case of the Appellants that they have not executed agreement for sale dated 02 March 2020 (Visar Pavati) and that their signatures appearing on the said document are fake. The Appellants further contend that entire area of the suit property admeasuring 59R does not actually belongs to the Appellants and there are other co-sharers in the said area of the land. It is further contended by the Appellants that the Plaintiffs fraudulently published the notice in the newspaper on 15 December 2019 to the effect that the Plaintiffs had agreed to grant development rights in respect of the suit property admeasuring 59R. It is contended that immediately after publication of the said notice, it was brought to the notice of the advocate of the Plaintiffs that there were two errors in the publication of notice. That the first error was with regard to statement about agreement between the parties for grant of development rights in respect of the suit property. It is contended that the only negotiations were going on between the parties when the public notice was published. The second error according to the Appellants is with regard to the area of land specified in the public notice. According to them, the Appellants owned area admeasuring only about 9R and not the entire area admeasuring 59R. It is contended that the advocate for the Plaintiffs however got corrigendum published in the newspaper on 18 December 2019 for correction of only the first error regarding negotiation. That the correction of area was not indicated in the corrigendum. It is further contended that after publication of the public notice and corrigendum,

Plaintiffs started depositing certain amounts in the accounts of the Appellant without any demand to that effect from Appellants and in absence of any agreement for sale of the suit property. Appellants / Defendants denied that they have signed or executed Visar Pavati dated 02 March 2020.

3. I have heard Mr. Hake, the learned counsel appearing for Appellant and Mr. Dhakephalkar, the learned senior advocate appearing for Respondent. Mr. Chavan would submit that he would like to intervene in the present Appeal as his clients are other co-sharers in respect of the entire area of the suit property admeasuring 59R. He would submit that his clients admittedly are not signatories to the Visar Pavati and the effect of the Injunction Order passed by the Trial Court is that his clients are also restrained from creating third party rights in respect of the suit property.

4. Having considered submissions canvassed by the learned counsel appearing for parties, it is seen that though the Defendants deny execution of the agreement for sale / Visar Pavati dated 02 March 2020, various events that occurred prior to 02 March 2020 would indicate willingness of the Defendants to sell / grant development rights in respect of suit property in Plaintiff's favour. Firstly one of the Defendants Shri.Vinod Govind Ranawade has signed the draft of public notice prepared by the advocate of the Plaintiffs. In accordance with that draft, public notice was published on 15 December 2019. The Defendants however desired that the statements in the public notice that "Defendants

had agreed for grant of development rights” be replaced with the statements that “Parties were merely negotiating transaction.” Accordingly the draft corrigendum was prepared by the advocate of the Plaintiffs on 17 December 2019 which is countersigned by Shri. Vinod Govind Ranwawade. Accordingly said corrigendum came to be published on 17 December 2019. It is pertinent to note that corrigendum described the area of land as 0 H. 59 R. Even the original public notice described the area as 0 H 59 R. Both the drafts were signed by Shri. Vinod Govind Ranawade without raising any objection with regard to area of land in respect of which the public notice / corrigendum were to be issued.

5. There is no dispute to the position that various amounts have been deposited by the Plaintiffs in the accounts of the Defendants from 31 March 2020 till 05 February 2020. According to Plaintiffs before execution of the Visar Pavati, an amount of Rs.42,50,000/- is paid to the Defendants out of which only amount of Rs.17,50,000/- is paid by cash. Rest of the amount has been deposited in the accounts of the Defendants. There is nothing on record to indicate that any of the Defendants raised any objection about deposit of amount in their accounts. They did not offer to return the amount stating that the amounts were wrongly deposited in their accounts. Considering the above circumstances, *prima facie* it is difficult to hold at this stage that the Defendants have not signed or executed the Visar Pavati dated 02 March 2020. The Visar Pavati has been executed before the notary public. Whether the Defendants actually signed or executed the Visar Pavati it is something

which will have to be examined at the time of trial of the suit. As of now, strong *prima facie* case exists in favour of Plaintiffs for grant of temporary injunction.

6. The Trial Court has rightly granted temporary injunction in favour of the Plaintiffs. The Appeal, being devoid of merits, deserves to be rejected. It will be open for the interveners to file an Application for their impleadment before the Trial Court. If such Application is filed, the same would be decided on its own merits. Needless to say that the Trial Court shall not be influenced by any of the observations made in the Order while deciding the suit finally.

7. Appeal is accordingly rejected without any orders as to costs.

SANDEEP V. MARNE, J.

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