

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
APPEAL NO.53 OF 2021
IN
NOTICE OF MOTION NO.1531 OF 2016

Pagarav Chaitanya Kumar Patel

....Appellant

V/s.

Rajendra Saxena & Ors

...Respondents

WITH
INTERIM APPLICATION NO.1207 OF 2020
IN
APPEAL NO.53 OF 2021

Mr. Dinesh Mishra a/w Ms Kajal Wadhwana for Appellant.
Ms Aparna Deokar i/b M. P. Vashi & Associates for Respondent Nos.1 & 2.

CORAM : K.R. SHRIRAM &
RAJESH S. PATIL JJ
DATED : 10th APRIL 2023

P.C. :

1 After the appeal was argued for sometime, Mr. Mishra submitted that the observation made by the Learned Single Judge that appellant is not a bonafide purchaser, might hurt appellant during the hearing of the suit. Ms Deokar submitted that any observation made in the order disposing an interim application would certainly be a prima facie observation.

2 We have to also note that in paragraph 37 the Learned Single Judge has been careful to note that the aforesaid facts and circumstances prima facie indicate that “*defendant no.2 is not a bonafide purchaser for value* It prima facie appears that defendant nos.1 and 2 have entered

into agreement and the object of which is prima facie unlawful, would not prima facie confer any title or interest in favour of defendant no.2.”

3 Therefore, the Learned Single Judge has been careful to clarify the observation as prima facie observation. Therefore, appeal dismissed as withdrawn. It will be open to appellant to prove his case before the Trial Court.

4 Consequently, interim application also stands disposed.

5 We clarify that we have not made any observations on the merits of the matter.

(RAJESH S PATIL, J.)

(K.R. SHRIRAM, J.)