



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**932 APPEAL FROM ORDER NO. 22 OF 2024
WITH
CIVIL APPLICATION NO. 6398 OF 2024
IN AO/22/2024**

M/S ARYA HYBRID SEEDS LTD. THROUGH ITS AUTHORIZED
OFFICER SHRI BHAUSAHEB D. JAWALE

VERSUS

M/S JAIRANA REAL ESTATE GROUP THROUGH ITS
PARTNERS ASHOK VITTHAL KASULE AND OTHERS

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Advocate for the Petitioner : Mr. P. A. Bhosle

Advocate for Respondent No.1-A,1-B,1-C : Mr. S.D. Hiwrekar

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CORAM : SANDIPKUMAR C. MORE, J.

DATED : 29 August, 2024

ORDER:-

1. The learned counsel S.D. Hiwrekar causes appearance on behalf of respondent except respondent No.1D.
2. Heard rival submissions at admission stage.
3. The present appeal is filed against the order dated 18.03.2024 passed by the learned 5th Jt. Civil Judge, Junior Division, Aurangabad i.e. the learned trial Court below application at Exh.5 in Special Civil Suit No. 444 of 2023. Under the impugned order, the learned trial Court has rejected the application Exh.5 of the present appellant/plaintiff for temporary injunction. It appears that, the appellant/plaintiff has prayed for restraining the defendants from alienating the

suit land mentioned therein during the pendency of the application.

4. Without going into the merits of the case what is revealed is that the defendants had in fact filed pursis before the learned trial Court at Exh. 13 by undertaking that they would not alienate the suit property till the decision of the suit. On filing such pursis, the plaintiff ought to have withdrawn the Exh. 5 application. However, the plaintiff proceeded with the said application which ultimately got rejected.

5. The learned counsel for the appellant/plaintiff submits that even though such pursis is filed by the defendants, but the present appeal has been filed feeling aggrieved by certain observations of the learned trial Court on merit in the impugned order. However, such observations at interim stage are only of preliminary observations and they are not having any bearing on the final decision of the suit in the light of evidence on record.

6. The learned counsel for the respondents/defendants fairly submitted before the Court that the defendants are still bound by the pursis Exh. 13 filed before the learned trial Court and they will not create any third party interest over the suit property till the disposal of the main suit.

7. The same fact is reiterated in the affidavit-in-reply filed by the respondents/defendants today itself.

8. As such, when the purpose of filing Exh. 5 application of the appellant/plaintiff is already served by such undertaking given by the respondents under pursis Exh. 13, then there is no need to discuss the impugned order in the light of legal provisions and on merit.

9. It is made clear that the learned trial Court without being influenced with its own observations in the impugned order shall decide the suit on its own merit and in the light of evidence adduced.

10. Therefore, Appeal from Order along with pending Civil Applications, stand disposed of.

(SANDIPKUMAR C. MORE, J.)

Y.S. Kulkarni