



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

2 WRIT PETITION NO. 12984 OF 2023

SANJAY DHANSINGH PILODKAR
VERSUS
NARAYAN RAMBHAU BORE ALIAS TELLI

...
Advocate for the Petitioner : Mr. Thorat Mohanish V
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CORAM : ARUN R. PEDNEKER, J.

Dated : February 26, 2024

PER COURT :-

1. The petitioner is challenging the order passed by the Appellate Court whereby the petitioner/defendant is restrained from creating third party interest of any nature in the suit land till disposal of the suit.
2. The plaintiff/respondent filed a suit for specific performance of a registered agreement to sell. In terms of the said registered document i.e. agreement dated 07/10/2020, the suit land which is an agricultural land admeasuring 1 R out of Gut No.3, the plaintiff/respondent paid an amount of Rs.2,60,000/- towards earnest money to the defendant and remaining amount of Rs.2,50,000/- was agreed to be paid at the time of execution of sale deed after obtaining sale permission by the defendant from the Collector. But, as the permission for the land was not obtained, sale deed could not be executed. As the defendant has avoided to get the necessary permission from the Collector, the plaintiff filed a suit

for specific performance of the contract and permanent injunction.

3. The defendant/petitioner, in the written statement submits that plaintiff/respondent has prepared agreement of less amount than the market rate by cheating the defendant. On 06/10/2020, the plaintiff executed agreement on stamp paper of Rs.100/- for consideration of Rs.13,37,500/-, which is in the custody of the plaintiff, whereby plaintiff issued cheque of Rs.8,00,000/- to the defendant and remaining amount of Rs.5,37,500/- is mentioned in said agreement. In fact, the plaintiff agreed to purchase the suit land at the rate of Rs.30,00,000/- per acre.

4. The Trial Court on consideration of the defence of the defendant refused to grant interim injunction against which the plaintiff filed an appeal. The Appellate Court while deciding the temporary injunction application observed that there is a registered document on record and the plaintiff has paid amount of Rs.2,60,000/- to the defendant, and the subsequent documents are yet to be proved, and the same can be proved at the time of final adjudication. But since it is established that there is a registered agreement to sell and the plaintiff has paid Rs.2,60,000/-, the Appellate Court has allowed the temporary injunction to the extent that the defendant is restrained from creating third party interest of

any nature in the suit land till disposal of the suit.

5. The learned Advocate for the petitioner submits that the plaintiff has not come with a clean case and further the order passed by the Appellate Authority granting injunction would be misused by the plaintiff.

6. The subsequent agreements between the parties are yet to be proved at the stage of the trial, as such, I see no error in the order passed by the Appellate Court granting injunctions in the nature of not to create third party interest in the suit land till disposal of the suit.

7. As regards second submission of the petitioner that the plaintiff would not permit the defendants from using the suit land, the defendants are only restrained from creating third party interest in the suit property, and if such a situation does arise, the defendant would be at liberty to approach the Trial Court for appropriate relief, and the Trial Court to decide the same in accordance with law. As such, there is no reason to interfere in the order passed by the Appellate Court. The writ petition is disposed of accordingly.

(ARUN R. PEDNEKER, J.)

vj gawade/-.