

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

**INTERIM APPLICATION NO. 1066 OF 2024
(for stay/injunction)
IN
SECOND APPEAL NO. 23 OF 2024**

Yashwant Shankar Hinge and anr. . . Applicants

v/s.

Kailas Baburao Manjare and Ors. . . Respondents

Mr. Girsh Godbole *a/w. Ms. Shivani Samel, for the Applicants.*

Mr. Surel Shah *a/w. Mr. Namit Bavsare, for the Respondents.*

CORAM : SANDEEP V. MARNE, J.

Dated : 8 February 2024.

P.C. :

1. The Interim Application is filed seeking interim order of restraint on creation of third party rights in the suit property by the Respondents during pendency of the Appeal.

2. Plaintiffs' suit for specific performance was decreed by the Trial Court and the decree has been reversed by the first Appellate Court, essentially relying upon unregistered document containing a clause for payment of consideration of Rs.18,00,000/- as against the agreed

consideration of Rs.4,00,000/- in the registered Agreement. It is on account of the higher amount reflected in the unregistered document that the first Appellate Court has given a finding of Plaintiffs not being ready and willing to perform his part of the contract. The Appeal is already admitted by formulating substantial questions of law. It is therefore necessary that during pendency of the Appeal, Defendants preserve the suit property which appears to be in their possession. Accordingly, during the pendency of the Appeal, the Defendants shall not alienate, part with possession or create any third party rights in respect of the suit property without the permission of the Court. Similarly, during pendency of the Appeal, the amount deposited by the Plaintiffs in the Trial Court shall remain deposited.

3. With the above directions, the Interim Application is **disposed of**.

NEETA
SHAILESH
SAWANT

SANDEEP V. MARNE, J.

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