

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

**APPEAL FROM ORDER NO.719 OF 2024
WITH
INTERIM APPLICATION NO.13861 OF 2024**

Symbiosis
Through its Trustees
Dr. Shantaram B. Majumdar & Ors. ...Appellant
vs.
Ashwin G. Jasapara & Ors. ...Respondents

Mr. Pradip Thorat with Aakash Joshi with Ravi Bharadhwaj with
Nilakh Kumar Jha for the Appellant.

CORAM : SHYAM C. CHANDAK, J.

DATED : 17th OCTOBER, 2024

P. C. :

. Heard learned Counsel for the Appellants. Perused the
Appeal memo and aforesaid Interim Application.

2) The aforesaid Appeal impugning the Order dated 22nd
August 2024, passed by the Court of 9th Joint Civil Judge, Senior
Division, Nashik below Application Exh.90 in Special Civil Suit
No.130 of 2017, thereby said Application at Exh.90 filed by
Respondent No.1-Plaintiff has been allowed and temporary injunction
has been granted thereby the Appellant/Defendant No.1 has been
restrained from carrying out any construction in the suit properties
1A and 1B and from using the same for any purpose, till the final
disposal of the suit.

3) Learned Counsel for the Appellant submitted that the Appellant has purchased the suit properties 1A and 1B for a total consideration of Rs.19,51,91,000/-. The Plaintiff facilitated the said transaction in which the Plaintiff was to receive a total monetary benefit or remuneration totaling to Rs.7,73,00,000/-, subject to complying/facilitating mutation in respect of suit properties, getting the construction plan sanctioned etc. Besides that, the Plaintiff was required to facilitate possession of deficit 800 sq. mtrs. land, as stated in the sale deed of the suit property 1B. However, the dispute occurred between the Plaintiff and the Appellant on account of not fulfilling reciprocal obligations. It resulted in the Appellant not the paying the balance consideration of Rs.2,53,00,000/- to the Plaintiff. Therefore, the Plaintiff filed the aforesaid suit for recovery of Rs.2,53,00,000/- along with interest of Rs.86,02,000/- totaling to Rs.3,39,02,000/- with prayer to grant future interest at 12% per annum. In the alternate the Plaintiff prayed for declaration that, confirmation deed dated 17th September 2013, between the Plaintiff and Appellant is not binding on the Plaintiff. Further, that the sale deeds executed by Defendant Nos.2 to 20, are not binding on the Plaintiff and to declare said sale deeds as canceled. That, the said sale deeds be recorded in the name of the Plaintiff.

4) Learned Counsel for the Appellant submits that, the suit was filed enclosing Application at Exh.5. However, the Application Exh.5 was subsequently not pressed by the Plaintiff. Similarly, counter claim filed by the Defendant Nos.3 to 20 has been dismissed qua the Appellant. No interim relief has been applied for by Defendant Nos.2 to 20. The title of the suit properties are in the name of the Appellant. The Appellant is an educational institute. Meanwhile the Appellant and Plaintiff filed consent terms to compromise the suit. However, it did not resulted in the amicable settlement. Learned Counsel for the Appellant, on instructions, made a statement that the Appellant is ready to deposit the principal amount of claim of Rs.2,53,00,000/- in the trial Court within a week's time and in any case on or before 25th October 2024. However, the aforesaid amount has been allegedly due since before the suit. The suit is filed in the year 2017. Therefore, it would be appropriate that the Appellants also deposit the interest part, looking at the relief the Appellants are seeking at this stage. This is without prejudice to the rights and contentions of the parties. Hence, following Order :-

ORDER

- (a) There shall be ad-interim stay to the impugned Order dated 22nd August 2024, subject to the Appellant depositing Rs.2,53,00,000/- towards the principal

amount and Rs.86,02,000/- towards interest on principal amount, in the trial Court on or before 25th October 2024, and produce payment receipts thereof in the Appeal on the next date.

- (b) The trial Court shall invest the said amount i.e. Rs.2,53,00,000/- and Rs.86,02,000/- in separate fixed deposits, in the Nationalised Bank initially for a period of one year and the same shall be renewed from time to time, till the disposal of suit.
- (c) Issue notice to the Respondents. Notice is returnable on **28th November 2024.**
- (d) The Appellant to provide copy of the Appeal to the registry, for service of notice on the Respondents. In addition to Court's notice, the Appellant to serve the Respondents by the private notice and file affidavit of service on or before the returnable date. Hamdast allowed.

[SHYAM C. CHANDAK, J.]

HEMANT
CHANDERSEN
SHIV

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