



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

934 WRIT PETITION NO. 11876 OF 2025

JAGDISH BHAGCHAND AASAVA

VERSUS

VIMAL BALASAHEB SHELKE

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Advocate for the Petitioner : Mr. Malpani Mohit Rajendra

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CORAM : ARUN R. PEDNEKER, J.

Dated : September 30, 2025

PER COURT :-

1. Plaintiff/petitioner's suit for specific performance is partly decreed by directing the defendant to return earnest amount. The petitioner has challenged the decree of the trial court before the appellate court in which application is filed seeking injunction, not to interfere in the suit property or not to create third party interest. The appellate court has partly allowed the application restraining the defendant from alienating the suit property till the disposal of the suit. However, the prayer for injunction i.e. not to interfere with suit property is not granted. Hence, the present writ petition is filed by the plaintiff/petitioner.

2. The appellate court while passing the impugned order has observed that petitioner is not in possession of the suit property and as such has refused to grant injunction. The appellate court has further observed that from perusal of the judgment of the trial court, it cannot be ascertained whether the plaintiff is in possession of the suit property. The contention of the defendant that the amount received was only toward security of the hand loan transaction of Rs. 1,00,000/- is accepted.

3. In absence of clear findings that the petitioner is in possession of the

suit property, the writ court cannot grant injunction against the defendant. There has been no interim relief in favour of the petitioner all throughout the proceedings before the trial court and in appeal. I see no error in the impugned order passed by the appellate court. Considering the above, no case is made out for interference. The writ petition is dismissed.

(ARUN R. PEDNEKER, J.)

ssc/