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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 56 OF 2025
WITH
INTERIM APPLICATION NO. 926 OF 2025
IN
APPEAL FROM ORDER NO. 56 OF 2025**

S. M. Enterprises

.....Appellant

Vs.

Bulchand Bindumal and others

.....Respondents

Ms. Indira Labde for the appellant

Mr. Aseem Naphade a/w Mr. Tushar Goradia i/b Mr. Tushar Goradia for
respondent nos. 1 to 3

Mr. Mayur Khandeparkar a/w Ms. Riya Thakkar for respondent no. 5

CORAM : GAURI GODSE, J.

DATE : 28th JANUARY 2025

ORDER:

1. Heard learned counsel for the appellant. This appeal challenges the dismissal of an application for interim relief restraining the defendants from redevelopment of the property. The injunction application also prays for restraining orders against a proposed defendant pursuant to a conveyance document referred to in the prayer.

2. The application is rejected mainly on the ground that the plaintiff has not claimed any performance of the terms and conditions of the

memorandum of understanding relied upon by the plaintiff. There is no dispute that the plaintiff has not prayed for specific performance of the contract, based on which the suit is filed. Learned counsel for the appellant submits that pursuant to liberty granted by the City Civil Court, the present suit is filed.

3. The order withdrawing the earlier suit on 3rd May 2023 is placed on record by the learned counsel for respondent no. 5. A perusal of the said order indicates that the suit is unconditionally withdrawn. The said order does not create any right in favour of the plaintiff to seek temporary injunction without substantiating any right in respect of the suit property.

4. It is well settled principle of law that without seeking specific performance and without taking any steps in furtherance of the part performance of the contract, the plaintiff would not be entitled to seek an order of injunction against the defendants. The plaintiff is seeking interim injunction in a suit simplicitor for injunction filed in January 2022, based on a memorandum of understanding dated 22nd June 2013.

5. I do not see any error in the impugned order. The appeal is

devoid of any merit. Hence, the appeal is dismissed.

6. In view of dismissal of the appeal, pending applications stand disposed of as infructuous.

[GAURI GODSE, J.]