

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 6621 OF 2024
IN
FIRST APPEAL NO. 780 OF 2024

Abdul Mohamed Hanifa Ahmed ...Applicant

Versus

Noor Mohd. Sayed Chand Shaikh And Anr. ...Respondents

Mr. Shrikant Rathi for the Applicant.

None for Respondents.

CORAM : M.M. SATHAYE, J.
DATE : 3rd NOVEMBER, 2025

P.C. :

1. At the outset, learned Counsel for the Applicant seeks leave to amend the prayer clause to include proper description of the suit property. Leave granted. Amendment to be carried out during the course of the day.

2. Heard learned Counsel for the Applicant. None appears for the Respondent despite name of the advocate appearing on cause list.

3. The Applicant is original Plaintiff in a suit filed for specific performance, which is dismissed under impugned Judgment and Decree. The suit was initially filed in this Court.

4. Learned Counsel for the Applicant invited attention to order passed by this Court on 10.05.2012 in Notice of Motion No. 1383 of

2011 in Suit No. 973 of 2011. Under said order, the motion was disposed of by making it absolute in terms of order dated 02.12.2011, which reads as under :

“The Learned Counsel appearing on behalf of the defendants state that pending the hearing and final disposal of the Notice of Motion, the defendants will not dispose of, alienate, encumber, part with possession of and/ or create any third party rights in respect of the suit property”

5. This suit was subsequently transferred to City Civil Court, Greater Bombay being present S.C. Suit No. 3518 of 2011 and dismissed.

6. By order dated 03.07.2024, rule was issued and ad-interim relief in terms of prayer clause (a) is already granted. The Respondent No.1 has filed reply.

7. Considering the nature of controversy and also considering the recitals in the suit agreement dated 19.04.2005 and further considering the manner in which the Trial Court has considered the prayers made in the suit, the present application is allowed in terms of prayer clause (a), which reads as under:

“(a) This Hon’ble Court be pleased to direct the Respondents (original Defendants) to not to dispose of, alienate, encumber, part with possession of and/or create third party rights in respect of Room number 7/1/1, CTS No. 130 situated at Bhaibhai Nagar, Sion-Trombay Road, Chembur Naka, Mumbai – 400 071 (i.e. ‘the suit premises’) till hearing and final disposal of the present Appeal.”

8. Interim Application is disposed of in above terms. Considering the nature of challenge, the Appellant is at liberty to move the appeal for disposal, which request may be considered independently.
9. All concerned to act on duly authenticated or digitally signed copy of this order.

(M.M. SATHAYE, J.)