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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 919 OF 2024
WITH
INTERIM APPLICATION NO. 15856 OF 2024
IN
APPEAL FROM ORDER NO. 919 OF 2024**

Shri Keshav Ramlal Kodre ... Appellant/Applicant

vs.

Shri Surendra Bapusaheb Pathare and ... Respondents
Ors

Mr. Sumit Sonare for Appellant/Applicant

Mr. Prajit Sahane i/b. Mr. Chaitanya Nikte for Respondent No.1.

CORAM : GAURI GODSE, J.

DATED : 17th MARCH 2025

ORDER:

1. This appeal is preferred by defendant no.1 to challenge the interim relief granted in the suit for specific performance filed by respondent no.1. By the impugned order defendant no.1 is restrained from creating third party rights in respect of the suit property. The prayer for restraining the defendant from carrying out construction is rejected. This appeal is filed by defendant no.1 to challenge the injunction restraining him from creating third party

interest.

2. Learned counsel for the appellant submits that the plaintiff's claim of execution of agreement for sale dated 12th December 2016 is not believable as the payment of cheque relied upon by the plaintiff is of the year 2017. He submits that there was a subsequent agreement executed in the year 2017. Hence, the prayer based on the agreement of the year 2016 is not believable. He therefore submits that the plaintiff would not be entitled to any specific performance of the agreement of 2016. He therefore submits that in the absence of any prima facie case made out by the plaintiff, the impugned order is erroneously passed against defendant no.1. He submits that the injunction granted against defendant no.1 would cause serious prejudice to the rights of defendant no.1. He therefore submits that the impugned order would require interference by this court.

3. I have perused the papers of the appeal. The transaction between the plaintiff and defendant no.1 is not disputed. Defendant no.1 has placed reliance on the agreement executed in 2017. The plaintiff's contention of payment of the earnest amount of Rs.3,00,000/- is not disputed by defendant no.1. The impugned order refers to the suit initiated by defendants for partition which is

still pending.

4. Considering the disputed questions and the rival contentions of the parties, the learned trial court judge was of the opinion that if the injunction is not granted it is likely to create multiplicity of proceedings. Considering the earnest amount paid by the plaintiff and the defence of defendant no.1 regarding the execution of another agreement in the year 2017, the reasons recorded in the impugned order for grant of injunction cannot be faulted.

5. Learned Judge has considered all the basic principles for granting discretionary relief of injunction. I do not see any illegality or perversity in the reasons recorded in the impugned order. To protect the status of the suit property and to avoid multiplicity of proceedings the learned Judge has rightly exercised its discretionary power to grant interim injunction. I see no prejudice caused to the plaintiff in view of the impugned order. The appeal is devoid of any merits. Hence, the appeal is dismissed.

6. In view of dismissal of the appeal, the pending interim application is dismissed as infructuous.

(GAURI GODSE, J.)