

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 792 OF 2024
WITH
INTERIM APPLICATION NO. 14578 OF 2024
IN
APPEAL FROM ORDER NO. 792 OF 2024

Tarannum Begum

...Appellant

V/s.

Ismail Abdullah Shaikh

...Respondent

Ms. Kranti Anand (Through VC) a/w Mr. Kush Gala & Mr. Afsar Ansari, for
the Appellant.

Mr. Abuzaid Javed Iraqui, for the Respondent.

CORAM : FARHAN P. DUBASH, J.

DATE : 28th APRIL 2026.

PC.:

1. The present Appeal impugns an order dated 9th August 2024 passed by the Trial Court in Notice of Motion No. 2293 of 2024 (**impugned order**). By this impugned order, the Trial Court has dismissed the said Notice of Motion preferred by the Appellant/Original Plaintiff, who has sought to restrain the Respondent from dispossessing and alienating the suit property.

2. The Appellant has filed the Suit in the Trial Court seeking specific performance of an Agreement for Sale dated 14th October 2020. Under this Agreement for Sale, the Respondent is stated to have entered into a contract to sell the suit property viz. Flat No. 306 situated on the 3rd Floor of Building No. 6 in Pawan Baug CHS, Chincholi Road, Malad (West), Mumbai-400 064,

with the Appellant for consideration of Rs. 30,00,000/-.

3. A perusal of this Agreement for Sale reveals that the entire consideration of Rs. 30,00,000/- was paid in cash to the Respondent that too, prior to the execution of the Agreement for Sale. The Appellant then contends that notwithstanding this Agreement for Sale, the Respondent did not appear for the registration thereof and instead demanded further consideration, a part of which was paid by her. In these circumstances, the Appellant has approached the Trial Court seeking protective reliefs and to restrain the Respondent from dispossessing her from the suit property.

4. In response, the Respondent contends that the Agreement for Sale is a forged and fabricated agreement, which has not been executed by him on 14th October 2020. To corroborate this, the Respondent relied on Medical Reports (Discharge Summary) issued by the Seven Hills Dedicated Covid Hospital (DCH), Andheri (West), Mumbai-400 059, which shows that he was suffering from coronavirus at that time and was admitted in the said hospital on 7th October 2020 and was discharged therefrom only on 21st October 2020. The Respondent therefore submits that he could never have executed the Agreement for Sale on 14th October 2020 since he was under quarantine during the entire said period.

5. A perusal of the impugned order reveals that the Trial Court has considered these submissions made by the parties and has *prima facie* found favour with the case advanced by the Respondent that the Agreement for

Sale was not executed by him, since he was in quarantine in the said hospital during that period. The Trial Court has also recorded a finding that the Appellant has failed to make out any *prima facie* case. The Trial Court has recorded a further finding that since the Appellant had approached the Court with a false case, she is not entitled to any reliefs and on that basis, dismissed the Notice of Motion preferred by her.

6. Ms. Kranti Anand, learned Counsel who appears for the Appellant is at pains to point out that the Trial Court has not considered the fact that besides the signature of the Respondent on the Agreement for Sale, several other persons have also signed it and there is no finding recorded in that regard that the same was not signed by the said persons. She further submits that the hospital certificate that is produced by the Respondent and which was accepted by the Trial Court, is forged and fabricated since there is no such hospital at the address mentioned in the said Certificate. She seeks to rely upon subsequent documentation, which she states has been obtained by her client pursuant to an application made under the Right to Information Act, 2005. However, this documentation was obtained by her only after passing of the impugned order and therefore was not placed before the Trial Court. As a result, it was not considered in the impugned order. In this background, she is not in a position to satisfy this Court that such new material/documents, etc. can be considered by this Court in the present Appeal when the same was not considered by the Trial Court at the time of

passing the impugned order.

7. Prima facie, from the documents that were available before the Trial Court, it has arrived at a correct finding that the Agreement for Sale appears to be a fabricated document upon accepting the Medical Reports produced by the Defendant. In such circumstances, once this finding was given, to my mind, the Appellant's contention that the Trial court has failed to take notice of the fact that the Agreement for Sale also bears signature of Attesting Witness/es and/or record any finding thereon loses significance.

8. The Appellant is not in a position to point out any infirmity in the impugned order. The impugned order is an interim order and the observations made therein will not bind the Trial Court at the final hearing. The Appellant will always be at liberty to lead evidence in support and prove the correctness of the contentions that are raised by her at the interim stage even though the same have not been accepted in the impugned order. She would also be entitled to seek liberty and rely on these new documents which she states to have recently obtained. Accordingly, Appeal From Order No. 792 of 2024 is dismissed with no order as to costs.

9. All pending Interim Applications stand disposed of in terms of this order and interim orders, if any, stand vacated.

(FARHAN P. DUBASH, J.)

Gitalaxmi