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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 6 OF 2026
WITH
INTERIM APPLICATION NO.56 OF 2026
IN
APPEAL FROM ORDER NO. 6 OF 2026

Abu Bakar Irshad Khan and Ors.

Appellants

.. (Orig. Plaintiffs)

Versus

Gurunath Jaganath Gaikwad and Ors.

Respondents

.. (Orig. Defendants)

.....

- Mr. Aseem Naphade a/w. Ms. Sana Khan and Ms. Arundhati Koral i/b SNG & Partners, Advocates for Appellants.
- Mr. Sachin Chandan, Advocate for Respondents.

.....

CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 05, 2026.

P.C.:

1. Heard Mr. Naphade , learned Advocate for Appellants and Mr. Chandan, learned Advocate for Respondents.

2. The present Appeal from Order assails impugned order dated 16.10.2025 passed in RCS No.000080 of 2023 by the Joint Civil Judge, Senior Division, Belapur wherein the Interim Application filed by Appellants under Order XXXIX, Rule 1 and 2 of the Code of Civil Procedure, 1908 (for short “CPC”) was dismissed. Parties will be referred to as Plaintiffs and Defendants for convenience. By consent of both parties Appeal from Order and Interim Application are heard

finally.

3. Application below Exhibit-63 filed by Plaintiffs on 14.08.2025 has been rejected by Trial Court by virtue of the impugned order. Copy of the impugned order is appended at page No.15 whereas copy of Application below Exhibit-63 is appended at page No.33 of the Appeal from Order.

4. Application below Exhibit-63 is filed in suit proceedings after almost six years of filing of the suit. Suit is filed originally by original Plaintiff No.1 – Irshad Ahmed Haji Iqbal Ahmed Khan and nine other family members seeking relief of declaration that Plaintiffs are in possession of the suit property and injunction against the Defendants. Suit plaint filed on 14.02.2018 is appended at page No.99. The reliefs in the suit plaint are at page No.102. Cause of action for filing suit in the year 2018 has arisen due to repeated threats of trespass received by Plaintiffs from the Defendants with regard to the suit property. Suit property is described as Survey No.23 admeasuring 1.14.4 at village – Navali, Taluka and District – Thane in paragraph No.1 of the suit plaint. It is land and built-up property having a shed.

4.1. On 13.08.2007, Irshad Ahmed Khan issued Public Notice stating that he purchased the suit property by Sale Deed dated 28.08.2000 from predecessor-in-title of Defendants and was in peaceful possession of the same and he had built a shed thereon.

4.2. In 2016, on demise of Jaganath Kachru Gaikwad, Defendant No.1 executed Agreement for Sale of the suit property in favour of a third party called Shabbir Shaikh. A separate suit proceeding filed by Plaintiffs is also pending in the Civil Court against this third party.

4.3. In February 2017, Defendant Nos.1 to 4 threatened to dispossess Plaintiffs' predecessor-in-title - Irshad Ahmed Khan. However pursuant to multiple discussions the issue was not aggravated any further.

4.4. On 14.02.2018, Defendant Nos.1 to 4 once again threatened to dispossess original Plaintiff No.1 i.e. Irshad Ahmed Haji Iqbal Ahmed Khan from the suit property, pursuant to which Plaintiffs filed a fresh suit for injunction.

4.5. In the said proceedings, a third person Subhash Krushna Gaikwad filed Affidavit dated 16.01.2019 whereby he stated that Jaganath Kachru Gaikwad had infact sold the suit property to original Plaintiff No.1 i.e. Irshad Ahmed Haji Iqbal Ahmed Khan and he was in possession since the year 2007.

4.6. On 04.07.2021, original Plaintiff No.1 i.e. Irshad Ahmed Haji Iqbal Ahmed Khan passed away and on 14.12.2021, Defendants alongwith others trespassed onto the suit property and destroyed 14 trees standing thereon and also threatened to dispossess the Plaintiffs from suit property. Plaintiffs filed complaint with Shil Daighar Police

Station about the incident of trespass on 14.12.2021.

4.7. Since no action was taken by the police, on 03.01.2022, Plaintiffs filed complaint with Police Commissioner, Assistant Police Commissioner, Senior Police Inspector and Forest Officer about the incident of trespass and illegal cutting down of tress by Defendants and threat of dispossession of Plaintiffs from the suit property.

4.8. On 05.01.2024, Plaintiffs lodged complaint with Shil Daighar Police Station against Defendant No.2's nephew and others for trespass and for carrying out unauthorized construction on suit property. Due to inaction on the part of police, on 17.02.2025, Plaintiffs addressed letter to the Chief Minister requesting to issuance of necessary directions to the concerned Police Authorities to prevent further trespass and encroachment. On 22.02.2025, Plaintiffs filed complaint with Assistant Commissioner of Police and Human Rights Commission further reiterating their grievance of illegal encroachment.

4.9. On 14.08.2025, Plaintiffs were compelled to seek urgent judicial intervention by filing an Interim Application below Exhibit-63 seeking interim injunction.

4.10. Due to pendency of Interim Application filed by Plaintiffs for ad-interim injunction and non-grant of ad-interim reliefs therein, Defendant No.1 executed Agreement for Sale in respect of suit property in favour of another third party namely Jagdish Mangal

Gaikwad and others.

4.11. By order dated 16.10.2025 passed by Trial Court, the Application below Exhibit-63 filed by Plaintiffs came to be rejected. Being aggrieved, Plaintiffs has filed the present Appeal from Order.

5. Mr. Naphade, learned Advocate for Plaintiffs would submit that the Trial Court has erred in dismissing the Interim Application below Exhibit-63 filed by Plaintiffs. He would submit that Trial Court has failed to consider the fact that there was a registered '*Manyata Patra*' dated 06.08.2007 i.e. the Sale Deed for sale of suit property in favour of Plaintiffs' predecessor-in-title. He would submit that Stamp Duty payable on the Deed of Conveyance was duly paid by Plaintiffs. He would submit that it is an admitted position that Defendants' predecessor-in-title executed the Sale Deed in the year 2000 and appeared before the Sub-Registrar of Assurances for registration of the same which is evident from the fact that Defendants' predecessor-in-title received the entire sale consideration. He would submit that despite issuance of Public Notice by Plaintiffs' predecessor-in-title with regard to purchase of suit property no objections were raised by any party until the demise of Jaganath Kachru Gaikwad i.e. Defendants' predecessor-in-title in 2016. He would submit that Plaintiffs were in peaceful possession until Defendants illegally trespassed into the suit property on 14.12.2021 for the first time. He would submit that Trial

Court failed to consider that Plaintiffs made repeated complaints to various police Authorities with regard to threat of unlawful dispossession and encroachment by Defendants since the year 2017.

5.1. He would submit that Trial Court failed to consider that Plaintiffs are owners of the suit property by virtue of Sale Deed being in place since the year 2007. He would submit that registered Sale Deed constitutes valid sale of the suit property which satisfies all requirements under Section 54 of Transfer of Property Act, 1882. He would submit that merely because Plaintiffs' predecessor's name has not been substituted in the government records or permission for the same has not been obtained, it does not render the sale transaction *void ab initio* as it is settled law that permission can be obtained at any point of time after execution of Sale Deed and same is in process.

5.2. He would submit that Trial Court failed to consider that the Gram Panchayat tax receipt holds a substantive evidentiary value which corroborates Plaintiffs' possession and ownership of the suit property.

5.3. He would submit that successor-in-title of Jaganath i.e. Defendants have not only trespassed, however committed fraud on Plaintiffs by entering into multiple Agreements for Sale in favour of third parties. He would submit that the Trial Court has erred in holding that '*Manyata Patra*' cannot be equated as a Sale Deed to transfer the

ownership as per Section 54 of Transfer of Property Act, 1882. Hence, he would submit that the present Appeal from Order be allowed in the interest of justice.

6. Mr. Chandan, learned Advocate for Respondents would draw my attention to the Affidavit-in-Reply dated 09.02.2026 filed by Defendant No.1 on behalf of Respondent Nos.3 and 4 and would submit that Plaintiffs filed the suit in the year 2018 seeking declaration that the Agreement for Sale and '*Manyata Patra*' executed between the predecessor-in-title of Plaintiffs and Defendants are binding upon Defendants, however it is necessary to consider that the Defendants specifically denied the execution and binding nature of the said documents.

6.1. He would submit that present Appeal from Order is grossly defective and misleading because Plaintiffs deliberately failed to annex documents containing pleadings based on which impugned order is passed namely suit plaint, amended plaint, Written Statement of the Defendants and Reply of Defendants to Interim Application. He would submit that such suppression disentitles Plaintiffs from seeking any equitable or discretionary relief.

6.2. He would submit that Defendants filed Reply dated 22.09.2024 annexed as Annexure-A to the Affidavit-in-Reply opposing the Interim Application for being false and frivolous, pointing out

illegality, fabrication of documents, absence of title and possession, government embargo, limitation, undervaluation and abuse of process. He would submit that present Appeal from Order is mere repetition of arguments already rejected by reasoned order.

6.3. He would submit that though market value of the suit property exceeds Rs.2,50,00,000/-, Plaintiffs intentionally suppressed valuation to evade proper court fees and to confer jurisdiction upon the Trial Court thereby rendering the suit undervalued and therefore vulnerable. He would submit that suit is barred for non-joinder of necessary parties and to bring them on record despite having its knowledge.

6.4. He would submit that no cause of action has accrued because pleadings disclose no completed transfer, no lawful conveyance, no possession and no enforceable right in Plaintiffs' favour. He would submit that Plaintiffs have not approached the Court with clean hands and suppressed material facts regarding filing of parallel suit for same cause of action being Special Civil Suit No.83 of 2024.

6.5. He would submit that suit plaint is vague because it does not specify exact area, boundaries or identifiable demarcation of the suit property, hence no injunction can be granted in absence of certainty. He would submit that Agreement for Sale dated 28.08.2000 and acknowledgment receipt for payment dated 06.08.2007 are false,

fabricated because deceased Jaganath Gaikwad – predecessor of Defendants is illiterate. He would submit that signature on the aforesaid documents was forged and therefore such documents are not binding upon Defendants.

6.6. He would submit that learned Trial Court correctly held that ‘*Manyata Patra*’ does not constitute a Sale Deed under Section 54 of the Transfer of Property Act, 1882 as it itself contemplates future acts such as registration and mutation. He would submit that execution of alleged Power of Attorney on the same day casts serious doubt on the transaction. He would submit that Trial Court rightly applied the law laid down in *Suraj Lamp & Industries Private Limited (2) Through Director Vs. State of Haryana And Another*¹ stating that transfer through Power of Attorney does not convey title.

6.7. He would submit that despite land bearing survey No.23 subjected to a subsisting government embargo clearly reflected in the 7/12 extracts, no prior permission or sanction was ever obtained. He would submit that revenue records consistently reflect names of the Defendants as legal heirs of Jaganath Gaikwad. He would submit that Plaintiffs or their predecessor were never recorded as occupants as well as they never erected any shed or were in possession of the suit property.

¹ 656 Supreme Court Cases (2012) 1 SCC

6.8. Next he would submit that tax receipt relied upon by the Plaintiffs pertains to Village Dahisar, Taluka Kalyan, whereas the suit property is situated at Village Navali, Taluka Thane, having no nexus whatsoever. He would submit that Plaintiffs themselves sought recovery of possession through amended plaint dated 16.03.2022, thereby admitting absence of possession. He would submit that plea of settled possession taken in Interim Application is self-destructive and contradictory, dis-entitling the Plaintiffs from equitable relief.

6.9. He would submit that Plaintiffs deliberately avoided filing suit for specific performance of alleged Agreements dated 28.08.2000 and 06.08.2007 as the same was hopelessly time barred under Article 54 of the Limitation Act and hence declaratory suit is a camouflage to overcome limitation. He would submit that Defendants denied execution of any registered Agreement by them in favour of third parties in 2016. He would submit that if such was the case and Plaintiffs had knowledge thereof, yet they slept over their alleged rights and filed Interim Application after a gross delay dis-entitling them from equitable relief.

6.10. He would submit that learned Trial Court has meticulously considered the issues of *prima facie* case, possession, balance of convenience and irreparable loss and rightly rejected the Interim Application. He would submit that the impugned order is a detailed,

reasoned order and based on correct appreciation of record and settled law. Hence he would submit that the Appeal from Order be dismissed alongwith the Interim Application.

7. I have heard Mr. Naphade, learned Advocate for Appellants and Mr. Chandan, learned Advocate for Respondents and with their able assistance perused the record of the case. Submissions made by both the learned Advocates at the bar have received due consideration of the Court.

8. *Prima facie*, it is seen that Plaintiffs' predecessor-in-title purchased suit property from Defendants' predecessor-in-title for consideration of Rs. 2,30,000/- by Agreement for Sale dated 28.08.2000 which is appended below Exhibit 'B' at page Nos.35 to 41 of Interim Application. It is seen that Irshad Ahmed Khan – original Plaintiff paid Rs. 30,000/- to Jaganath Kachru Gaikwad – original owner on 28.08.2000. It is further seen that there is a receipt displaying this transaction between parties which is appended at page No.42 of Interim Application.

9. Under the Agreement between parties remaining amount of Rs. 2,00,000/- was to be paid at the time of registration of Sale Deed. It is Plaintiffs' case that the said remaining amount was paid to Jaganath Kachru Gaikwad on 06.08.2007 by a '*Manyata Patra*' placed at Exhibit 'C' appended at page No.49 of Interim Application. However

it is seen that instead of registering the Sale Deed, a '*Manyata Patra*' / Consent Deed dated 06.08.2007 was executed and registered between parties which is appended at page Nos. 52 to 56 of Interim Application. It is clearly evident from the pre-registration Summary Part-1 and Part-2 documents alongwith Index – II signed and duly stamped by Sub-Registrar Thane-2 that there was a valid transaction in subsistence between Irshad Ahmed Khan and Jaganath Kachru Gaikwad for the suit property. On 03.08.2007 said Irshad paid stamp duty of Rs. 28,750/- and penalty of Rs. 48,300/- to Sub-Registrar Thane -2 for fructification of the said transaction.

10. On 06.08.2007 Irshad Ahmad Khan addressed letter to Sub-Registrar Thane – 2 requesting him not to register any new Agreement, Power of Attorney or Sale Deed pertaining to suit property. It is seen that subsequently Irshad Ahmad Khan issued Public Notice dated 13.08.2007 in a local newspaper declaring his purchase of alleged suit property by way of Agreement for Sale and Power of Attorney dated 06.08.2007 from Jaganath Kachru Gaikwad and according to Plaintiffs said transaction has concluded. It is seen that Affidavit dated 16.01.2019 was filed by one Subhash Krushna Gaikwad before Thane Civil Court wherein he stated that Irshad Ahmad Khan was lawful owner / purchaser of suit property adjoining his plot which he purchased from Jaganath Kachru Gaikwad and he is in possession of suit property since 2007.

11. Though it is clearly evident that there was exchange of consideration between parties with regard to Agreement for Sale dated 28.08.2000 alongwith registered '*Manyata Patra*' dated 06.08.2007, whether this can be construed as Registered document of Title is the limited question for grant of interim relief. It cannot be denied that there was transaction for purchase of suit property between predecessor-in-title of Plaintiffs and Defendants but whether the same can pass the test of legality and validity is the question as several disputed questions of facts arise.

12. On the contrary, in the present case it is seen that transfer of suit property had a government embargo on it which is seen from the 7/12 extract dated 14.02.2005 appended at page No.43 of Interim Application. It is pertinent to note that transfer of any such land having government embargo without obtaining permission from Collector or Competent Authority is voidable and transactions involving such immovable property transfers having government embargo are illegal and hence unenforceable. Further, no document showing authorized permission to transfer immovable property having government embargo has been placed on record till date. On the contrary, Plaintiffs have argued that government permission can be obtained post-sale of the suit property and it is in process. This cannot be accepted.

13. It is seen that Trial Court correctly upheld that the ‘*Manyata Patra*’ which is argued to be a deemed “Sale Deed” cannot be inferred and construed as Sale Deed under Section 54 of Transfer of Property Act, 1882. The Trial Court further observed that registration of a document with Sub-Registrar *ipso facto* cannot be the reason to construe that the said document i.e. ‘*Manyata Patra*’ is a Sale Deed for germination of title in favour of Plaintiffs’ predecessor-in-title. However neither names of deceased purchaser Irshad Ahmad Khan nor his legal heirs after his demise were effected in Revenue record. Therefore it is seen that no foundational / cogent documents were placed on record conferring title on Plaintiffs, however no documents / evidence is placed on record evidencing possession and dispossession by Defendants thereby failing to make out any *prima facie* case against the Defendants.

14. I am of the opinion that in the present case balance of convenience is decisively in favour of Defendants because it is settled law that no transfer of immovable property is complete and valid without a registered Sale Deed and therefore *prima facie* it is seen that the suit property was never transferred validly and completely in the name of predecessor-in-title of Plaintiffs despite assuming payment of full consideration amount. However, this will be a matter of trial.

15. It is pertinent to note that said ‘*Manyata Patra*’ being

executed and registered in the year 2007 and Jaganath Gaikwad – original owner passing away in 2016 following the demise of Plaintiffs' predecessor-in-title who passed away in 2021, it is evident that Plaintiffs had enough timespan to execute and register the Sale Deed or obtain necessary permission for purchase of land from the government, which they failed to obtain. Hence it is clear that it is the duty cum responsibility of both parties to transaction i.e. vendor and purchaser to verify whether land to be sold / purchased has any kind of embargo / encumbrance / restriction at the time of its transfer, if any, and it should be informed to the other party.

16. It is seen that dispute over the suit property between parties arose only after demise of Jaganath Gaikwad. It is seen that Defendants subsequently registered Agreement to Sale with Shabir Shaikh and Jagdish Mangal Gaikwad and others which Plaintiffs were aware of despite which Plaintiffs did not take any action against them or implead them as parties to the suit proceedings. Furthermore, it is a settled legal position that the Agreement for Sale does not create or confer any title over the suit property. All these are disputed questions of facts and Plaintiffs have not been able to substantiate them *prima facie*.

17. The third parameter which needs to be considered herein is whether any irreparable injury may be caused to Plaintiffs if interim

relief is granted against them for the reasons stated above. An irreparable injury means a material injury where it cannot be adequately compensated by way of damages. In the matter before me, according to the abovementioned facts and circumstances, it is seen that the conduct of Plaintiffs is not reasonable for getting equitable relief of injunction due to gross delay which is *prima facie* evident on the face of record. Further there are several disputes questions of facts which arise in the present matter.

18. It is seen that premise for filing the suit in the year 2019 is based upon two incidents and events. According to Plaintiffs by Agreement for Sale dated 28.08.2000, copy of which is appended at page No.35 of the Interim Application, the predecessor-in-title of Defendants namely Jaganath Kachru Gaikwad executed Agreement for Sale of suit property with predecessor-in-title of Plaintiffs. When the said Agreement for Sale is perused, it is *prima facie* seen that there is no averment with regard to possession therein. Hence *prima facie* Plaintiffs' case that they were put in possession cannot be accepted and it will be a matter for trial. Further the total consideration as stated in the said Agreement for Sale is Rs.2,30,000/- out of which Rs.30,000/- was paid over to Jaganath Kachru Gaikwad on the date of execution of the Agreement for Sale in the year 2000. Clause No.6 in the said Agreement for Sale records that the balance amount shall be paid over to Jaganath Kachru Gaikwad at the time of registering the Sale Deed.

The second incident on which Plaintiffs rely upon is the receipt dated 06.08.2007 which has been signed and given by Jaganath Kachru Gaikwad , *inter alia*, stating that he has received amount of Rs.30,000/- in the year 2000 and Rs.2,00,000/- in the year 2007. Save and except this statement as stated in the receipt which is on a stamp paper, there is no other corroborating evidence substantiating receipt of the aforesaid amount and / or about possession. On the basis of these two incidents, suit plaint is filed by Plaintiffs due to repeated threats of dispossession from Defendants in the year 2018. Defendants who are arrayed as parties are five in number. Defendant No.1 is Gurunath Jaganath Gaikwad presumably son of Jaganath Kachru Gaikwad. Other heirs of Jaganath Kachru Gaikwad are not arrayed as parties. Defendant Nos.2 to 5 are presumably legal heirs of Jaganath Kachru Gaikwad but their relationship is not explained. Neither the family tree of Jaganath Kachru Gaikwad is also explained by Plaintiffs in the suit plaint.

19. After the Suit is filed, Plaintiffs did not file Application below Exhibit-5 for quite sometime. In the interregnum, original Plaintiff No.1 – Irshad Ahmed Haji Iqbal Ahmed Khan expired on 04.07.2021. Application below Exhibit – 63, which is essentially Application for temporary injunction copy of which is appended at page No.33 of the Appeal from Order is filed on 14.08.2025, *inter alia*, alleging that pursuant to demise of original Plaintiff No.1, Defendants forcibly

trespassed onto the Plaintiffs' property on 14.12.2021 and ousted the Plaintiffs. It is averred that thereafter Plaintiffs approached the Law Enforcement Agencies and also filed complaint with the Chief Minister but to no avail. Ultimately the Plaintiffs filed Application below Exhibit-63 seeking temporary injunction against Defendants from creating third party rights alongwith Application under Order XXXIX Rules 1 and 2 of CPC for computation of *mesne profits*. Once again when the Application below Exhibit-63 is perused, there are no details stated in the Application, *inter alia*, with regard to possession of the suit property with the Plaintiffs. Plaintiffs have also not explained the reasons for delay in filing the Application when the incident of trespass dates back to 14.12.2021 and Application is filed on 14.08.2025, after almost 4 years.

20. In the aforesaid background, learned Trial Court has passed the impugned order dated 16.10.2025 below Exhibit-63, copy of which is appended at page No.15. Learned Trial Court after considering the case of both parties has rejected the Application on the ground that the twin documents referred to and relied upon by the Plaintiffs in support of their case, do not support or corroborate Plaintiffs entitlement. The learned Trial Court has held that suit itself has been instituted in the year 2018 on the strength of the Agreement for Sale 28.08.2000 and '*Manyata Patra*' dated 06.08.2007 it suffers from very serious infirmity namely that for the purpose of transfer and conveyance of the suit

land, previous sanction of the government was a mandatory condition which was admittedly not obtained. Learned Trial Court has held that no such permission whatsoever has been obtained by the original Plaintiffs from the government pursuant to execution of Agreement dated 28.08.2000 and the same situation subsists till today.

21. Learned Trial Court has rejected case of Plaintiffs that Agreement and '*Manyata Patra*' should be treated as deemed Sale Deed due to various reasons. Learned Trial Court has also rejected the second incident referred to and relied upon by the Plaintiffs namely the receipt dated 06.08.2007 issued by Jaganath Kachru Gaikwad due to lack of evidence and substantiation. Learned Trial Court has relied upon paragraph No.11 of the Agreement dated 28.08.2000 which categorically records that vendor would help original Plaintiff No.1 to get the documents registered and for mutation of their names in the government office which was never done. Thus on the basis of the aforesaid reasons, case of Plaintiffs is *prima facie* not considered by the learned Trial Court. Further case of Plaintiffs is that the predecessor-in-title of Plaintiffs writing letter dated 06.08.2007 to the Sub-Registrar reflects that registration of Sale Deed was rejected since the Agreement and '*Manyata Patra*' did not provide for the same.

22. On the aspect of possession, since name of original Plaintiff No.1 has never been reflected in the Revenue record since 2007

onwards and neither any of the documentary evidence referred to and relied upon by Plaintiffs shows that original Plaintiff No.1 was put in possession of the suit property, case of Plaintiffs cannot be accepted. Plaintiffs have referred to and relied upon tax receipt dated 26.08.2023 of the Gram Panchyat, Dahisar, Kalyan District – Thane in the name of Irshad Haji Iqbal i.e. original Plaintiff No.1 for house No.154 standing on the suit property. However *prima facie* learned Trial Court has held that said tax receipt does not pertain to the structure standing on the suit property so as to accept Plaintiffs' case *prima facie*. Trial Court has also held that Plaintiffs have filed companion Special Civil Suit No.83 of 2024, *inter alia*, pertaining to the same suit property which has not been explained by them for the purpose of seeking injunctive reliefs in the Application filed below Exhibit-63. Thus learned Trial Court has held that the '*Manyata Patra*' cannot be equated as deemed Sale Deed for considering it to be transfer under the provision of Section 54 of Transfer of Property Act, 1882. I fully agree with the views expressed by the Trial Court and endorse the reasons given for arriving at the same on the basis of *prima facie* material.

23. That apart, there are substantive disputed questions of fact with regard to registered Agreements which are placed on record by Plaintiffs which have been executed and registered in the year 2025 which have also been commented upon by the learned Trial Court. All

this will require evidence.

24. In that view of the matter, learned Trial Court has opined that Plaintiffs have not made out a *prima facie* case and I fully concur with the same and find no reason to interfere with the findings returned by the learned Trial Court in the impugned order with regard thereto. That apart, conduct and delay has also been held against the Plaintiffs by the learned Trial Court holding that there is a humongous delay in seeking interim relief and that too without impleading concerned stakeholders and most importantly not suing the predecessor-in-title of Defendants when he was alive.

25. In that view of the matter and upholding the views expressed by Trial Court, I am not inclined to accept the submissions made by Mr. Naphade and the same stand rejected. Submissions made on behalf of Defendants by Mr. Chandan stand duly accepted.

26. In view of the above *prima facie* observations and findings, Appeal from Order stands dismissed.

27. However all contentions of both sides namely Plaintiffs and Defendants in the suit proceeding are expressly kept open. The views expressed in this order and the observations made are purely *prima facie* and they are expressed only in regard to this order. They shall not come in the way of Plaintiffs and their right to lead substantive evidence in accordance with law in the suit proceeding and all their

contentions are expressly kept open in support of their case.

28. In view of dismissal of Appeal from Order, pending Interim Application is also dismissed.

[MILIND N. JADHAV, J.]

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by HARSHADA
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