

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

SECOND APPEAL NO. 170 OF 2026

Arun Jagannath Shetty

..Appellant

Versus

Mallika Ashfaque Shaikh & ors

...Respondents

**WITH
INTERIM APPLICATION NO. 2665 OF 2026
IN
SECOND APPEAL NO. 170 OF 2026**

Mr. Tushar T Chavan i/b Mr. Nilesh Joshi a/w Mr. B S Iyer, for
the Appellant.

CORAM : N. J. JAMADAR, J.

DATE : 15th APRIL 2026

Oral Order :

1. Heard the learned Counsel for the appellant.
2. The challenge in this appeal is to a judgment and decree dated 06th January, 2026 passed by the learned District Judge, Pune in Regular Civil Appeal No. 179/2014 whereby the appeal preferred by the appellant/original Defendant No. 6 against the judgment and decree in Special Civil Suit No. 1574/2008, thereby granting specific performance of the contract for sale dated 15th February, 2008, and declaring that the sale deed executed by the Defendant Nos. 1, 2 and 4 in favour of the

appellant was illegal, bad in law and not binding upon the plaintiffs, came to be dismissed.

3. An agreement for sale was executed by Respondent Nos. 4 to 8/original Defendant Nos. 1 to 5 in favour of the plaintiffs on 04th October, 2004. It was a registered instrument.

4. Subsequently, on 15th February 2008, the Defendant Nos. 1, 2 and 4 executed a deed of conveyance in favour of the appellant.

5. The trial Court was persuaded to decree the suit for specific performance of the contract. It was *inter alia* held that, the appellant was not a bonafide purchaser for value as the agreement for sale executed by the Defendant Nos. 1 to 5 in favour of the plaintiffs was a registered instrument and, thus, the appellant had a constructive notice under Section 3 of the Transfer of Property Act, 1882.

6. The Appellate Court has concurred with the view of trial Court. While dealing with the submissions canvassed on behalf of the appellant that, the appellant was a bonafide purchaser for value, the learned District Judge, in view of the prior registered

instrument in favour of the plaintiffs, relied upon the doctrine of constructive notice.

7. Mr. Chavan, the learned Counsel for the appellant submitted that, both the Courts below have committed an error in law in returning a finding that, the appellant was not a bonafide purchaser for value. It was submitted that, the trial Court had framed an incorrect issue and instead of placing the burden of proof of the fact that the appellant was a bonafide purchaser for value, on the appellant, the evidentiary burden was cast on the plaintiff and thereby the appellant/defendant no. 6 was misled. Despite noticing the said error, the learned District Judge failed to correct the same and went on to dismiss the appeal, submitted Mr. Chavan.

8. In the backdrop of the nature of the dispute between the parties, the appellant/defendant no. 6 had full notice of the evidentiary burden, which was required to be discharged by him at the trial. It was for the Defendant No. 6 to prove that, he was a bonafide purchaser for value without notice. In view of the fact that, the agreement for sale of which specific performance was sought, was a registered instrument, the Courts below were justified in drawing an inference that, the Defendant No. 6 had

constructive notice of the said agreement and, therefore, the Defendant No. 6 cannot be said to be a bonafide purchaser without notice.

9. Mr. Chavan, the learned Counsel for the appellant, submitted that, the appellant had indeed caused a title search and he was advised that, the title of his vendors was clear and, therefore, it cannot be said that the appellant was a bonafide purchaser.

10. I am afraid to accede to these submissions . A registered instrument constitutes a notice to the whole world. Thus, the principle of constructive notice comes into play.

11. A useful reference in this context can be made to a judgment of the Supreme Court in the case of *Shri. Mukund Bhawan Trust & ors. Vs. Shrimant Chhatrapati Udayan Raje Pratapsinh Maharaj Bhonsle & anr.*¹, wherein it was enunciated that, if the instrument evidencing a transaction is registered, there is constructive notice from the date of registration and the presumption under Section 3 of the Transfer of Property Act, comes into operation.

1 2024 SCC OnLine SC 3844

12. The aforesaid being the position in law, and the Courts below have recorded concurrent findings of facts which are not open for interference in exercise of the appellate jurisdiction governed by the regime of Section 100 of the Code of Civil Procedure, 1908, the appeal does not deserve to be entertained.

13. Hence, the Second Appeal stands dismissed.

14. In view of the dismissal of the Second Appeal, the Interim Application also stands disposed.

[N. J. JAMADAR, J.]