



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

A.O. NO.10 OF 2026

Dr. Amar S/o Shripadrao Gunjkar .Vs. Niranjan S/o Keshavdas Gyanchandani and
others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. Tabish Mirza, Advocate for appellant.

Mr. H.S. Chauhan, Advocate for respondents.

CORAM : ROHIT W. JOSHI, J.

DATE : 13/03/2026

1. The present appeal is preferred challenging order dated 03.11.2023, passed by the learned District Judge-2, Pusad, on application at Exh.18 in Regular Civil Appeal No.29 of 2022, thereby restraining the appellant/original defendant in the said appeal from creating third party interest over the suit property till final disposal of the appeal.

2. The appeal arises out of a suit for specific performance of a contract. The suit, being Special Civil Suit No.41 of 2011, was decided by the learned Civil Judge Senior Division, Pusad, Dist. Yavatmal, vide judgment and decree dated 06.08.2022. The learned trial Court refused to grant a decree for specific performance of contract and instead granted a decree for refund of part of the sale consideration of Rs.45,00,000/- in favour of the present respondents, who are the original plaintiffs. The total sale consideration of Rs.1,55,00,000/-. Having regard to the fact that as per findings recorded by the learned Trial Court, out

of total consideration of Rs.1,55,00,000/-, sum of Rs.45,00,000/- was paid by the defendant to the plaintiffs, as also having regard to the settled legal principle that normally subject matter of the suit is required to be preserved till the litigation is decided, in the considered opinion of this Court, the impugned order passed by the learned First Appellate Court, restraining the present appellant/respondent from creating third party interest in the suit property till final disposal of the appeal, does not warrant any interference. Appeal is therefore **dismissed** with no order as to costs.

(ROHIT W. JOSHI, J.)

C.L. Dhakate