



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 5433 OF 2024

(Abdul Mateen s/o Abdul Rahman Raza and ors Vs. Biharilal s/o Holaram Chelwani)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. J.M. Gandhi, Advocate for petitioners.
Mr. Jayesh Hariramani, Advocate for respondent.

CORAM : M.W. CHANDWANI, J.
DATE : 22.01.2026.

Heard.

2. Two concurrent findings of the learned Trial Court as well as the First Appellate Court granting injunction in favour of the respondent restricting the petitioners from creating third party interest are under challenge in this petition.

3. It appears that there is an agreement between the parties for sale and purchase of the entire land comprising of the sanctioned layout for consideration. The dispute arose between the petitioners and the respondent with regard to liability of necessary sanctions from RERA and other compliances. Therefore, a suit came to be filed by the respondent for specific performance of contract. Along with the suit an application for temporary injunction was moved which was allowed by the orders impugned.

4. The contention of the learned counsel for the petitioners is that the suit itself is not maintainable and therefore, impugned orders do not stand.

5. Considering the prima facie case in favour of the respondent along with other mandatory requirements, the learned trial Court has passed the impugned order restraining the petitioners from creating any third party interest which was confirmed by the First Appellate Court.

6. Perusal of the impugned orders does not reveal that this point was raised either before the Trial Court or the First Appellate Court while considering the application for temporary injunction. It appears that discretion has been exercised by the learned Trial Court as well as First Appellate Court, in favour of the respondent and therefore, I am not inclined to interfere with the same. It also appears that the point raised by the petitioners with regard to maintainability of the suit can be very well raised by them before the Trial Court while deciding the suit.

7. Since, temporary injunction orders are in operation against the petitioners, learned trial Court shall try to dispose of the suit, at the earliest. The petition is disposed of.

JUDGE

Belkhede