



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

APPEAL AGAINST ORDER NO.05/2026

Smt. Manoramabai Tulsiram Wakade and others

...Versus...

Shri Ravindra Mahadev Kapse

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

Court's or Judge's orders

Mr. C.M. Kulkarni, Advocate for appellants

CORAM : ROHIT W. JOSHI, J.

DATE : 09/02/2026

1. The present appeal is preferred against the order dated 15/12/2025, passed by learned 10th Joint Civil Judge, Senior Division, Nagpur on application at Exh.5 in Special Civil Suit No.1230/2025, whereby an order of temporary injunction is passed restraining the present appellants-original defendants from creating third party interest over the suit property, till final disposal of the suit. The suit is filed for specific performance of contract arrived at between the parties on 17/09/2025.

2. Perusal of findings recorded by the learned Trial Court will indicate that the plaintiff has placed documents on record indicating payment of Rs.1,20,00,000/- to the defendants. The findings in this regard are recorded by the learned Trial Court on the basis of documentary evidence placed on record by the plaintiff. The findings indicate that sum of Rs.1,20,00,000/- is paid by the plaintiff to the

defendants by cheques and through Online mode. Apart from this, an amount of Rs.11,000/- is paid in cash on 12/05/2025. It is the case of the defendants that they have cancelled agreement of sale and have returned amount of Rs.40,00,000/- to the plaintiff. With respect to this contention, learned Trial Court has observed that there is no material on record in support of this contention. Thus, according to the learned Trial Court, the plaintiff has *prima facie* established payment of more than 90% of sale consideration.

3. In view of such findings, learned Trial Court has recorded that plaintiff has made out a *prima facie* case for grant of temporary injunction. As regards grave and irreparable loss, also it is held that since the suit is filed for specific performance of contract, grave and irreparable loss will be caused to the plaintiff, if third party rights are created over the suit property. The findings recorded by the learned Trial Court indicate that even balance of convenience lies in favour of plaintiff.

4. Learned Advocate for the appellants has not pointed out any document to indicate return of Rs.40,00,000/- by the defendants to the plaintiff. In view of specific case of the appellants that amount of Rs.40,00,000/- is refunded upon cancellation of agreement, the fact that parties have arrived at agreement cannot be *prima facie* disputed. Likewise, payment of Rs.1,20,11,000/- is *prima facie* proved. The case of refund set up by appellants is not supported by any documentary evidence.

5. In view of the aforesaid, in the considered opinion of this Court, the order passed by the learned Trial Court is just and proper and does not warrant any interference. Appeal Against Order is, therefore, dismissed with no order as to costs.

(ROHIT W. JOSHI, J.)

Wadkar