

AD-INTERIM ORDER BELOW EXH. 5 IN R.C.S.NO. 07/2024

In a suit for declaration and injunction, the plaintiff by way of this application seeks to restrain defendant Nos. 1 to 5 temporarily from transferring, alienating or creating third party interest in the suit property /flats/ units and for restraining them from disturbing their peaceful possession over the suit property / flats / units.

2] The suit bearing RCS No. 07/2024 is instituted in respect of Flat Nos. 09, 05, 10 & 11 situated on a property bearing Survey No. 22/5/1/1 and CTS No.2434 at Thergaon, Tq. Haveli Dist. Pune., which is bounded as described in plaint para 01. (here-in-after referred to as the 'suit flat Nos. 'a', 'b', 'c' and 'd'/ suit property').

Facts as projected from the plaint are:

3] The Plaintiff pleaded that the plaintiff is a partnership firm and is engaged in the business of sale, purchase and development of landed properties and sell its units/ flats their in as builder and developer. As such, they developed "Lakshya Heritage" on the landed property owned by it bearing Survey No. 22/5/1/1 and CTS No.2434 at Thergaon, Tq. Haveli Dist. Pune. The building "Lakshya Heritage" consists of three floors and 12 flats i.e. Flat Nos. 1 to 12 i.e. four flats on each floor. Being owner of the said units/flats, the plaintiff has sold some flats to various customers and handed over its possession. As such, the purchasers are in peaceful possession of their respective units. However, one unit is unsold and is in possession of the plaintiff, which is part and parcel of the suit property i.e. suit flat 'a'. Defendant Nos. 1 to 5 have no right, title and interest in the suit flats. Defendant Nos. 1 to 5 alongwith some unknown persons have prepared false and bogus

documents of the suit flats and obtained loan from defendant No.6. As such, the defendant Nos. 1 to 5 alongwith others have prepared false and fabricated agreement to sell documents of the suit property and obtained loan from the defendant No.1. On 14.03.2023 one of the flat purchaser of the plaintiff received possession notice from the revenue officer to hand over possession of flat No. 10 to the defendant Nos. 1 and 2. Actually, the plaintiff never sold any unit to any of the defendants and not received any consideration amount. They are apprehending creation of third party interest in the suit flats by the defendants by use of all false and fabricated agreement to sell copies. So also, they are apprehending their dispossession at the hands of defendants. Hence, this suit and application.

4] Heard the learned Advocate for the plaintiff. Perused record of the case.

5] Plaintiff have filed on record copies of agreement to sell of suit flats executed by the plaintiff in favour of its purchasers. So also, the plaintiff has produced so called false and fabricated copies of agreement to sell executed by the unknown persons by impersonation in favour of defendant Nos. 1 and 2. The copy of Mutation Entry No.10527 shows that the plaintiff is owner of the suit property. Whether the defendant Nos. 1 to 5 have prepared false and fabricated agreement to sell of the suit flats by impersonation is crux of the matter which require adjudication on merit. But, at present the plaintiff appears to be lawful owner of the suit flats and the possibility of creation of third party interest by the defendants by use of so called false and fabricated agreement to sell cannot be ruled out. So also, the plaintiff may face

dispossession at the hands of defendants in view of above deeds.

6] Plaintiffs appears to have rights in respect of the suit land/flats. The application is also supported by an affidavit of plaintiff and its purchaser Mrs. Priyaka Bhalerao who has received possession notice of flat No.10. In such a situation, I am of the opinion that in order to protect possession of the plaintiff and its purchasers and to avoid multiplicity of the proceedings, it is a fit case to issue ex-parte ad interim order. Hence, the following order is passed.

ORDER

- 1] Issue ex-parte ad interim temporary injunction directing defendant Nos. 1 to 6 and their agents etc from transferring, alienating or crating any third party interest in respect of the suit land /flats situated on a property bearing Survey No. 22/5/1/1 and CTS No.2434 at Thergaon, Tq. Haveli Dist., till next date only.
- 2] Issue ex-parte ad interim temporary injunction restraining defendant Nos. 1 to 6 and their agents etc from dispossessing the plaintiff or its purchasers of the suit land /flats situated on a property bearing Survey No. 22/5/1/1 and CTS No.2434 at Thergaon, Tq. Haveli Dist., till next date only.
- 3] Issue show cause notice to defendant Nos. 1 to 6 as to why the ex-parte ad interim temporary injunction should not be continued till further order or specific time.
- 3] EP and SB allowed.
- 4] Plaintiffs to comply the provisions of Order 39 Rule 3(a) of Code of Civil Procedure Code, 1908.

Sd/-

(R. M. Giri)

Date :-12/01/2024

2nd Jt.Civil Judge Junior Division,
Pimpri, Pune.

CERTIFICATE

“ I affirm that the contents of this P. D.F file Judgment / Order are same word for word as per original Judgment.

Name of Steno : Smt. K. U. Pawar

Court Name : Shri. R. M. Giri
2nd Jt. Civil Judge Junior
Division, Pimpri, Pune.

Date : 12/01/2024

Judgment/Order signed by
presiding officer on : 16/01/2024

Judgment/Order uploaded on : 16/01/2024