

MHRG040014302024



Special Civil Suit No. 200/2024

**M/s. S. K. Enterprises Sanjay Shelke
Vs.
Jaywant Deshmukh**

ORDER BELOW EXH. 39

(Passed on 03rd September 2024)

1. Heard the learned counsel of both the parties. Perused the application and say filed by defendant No.6 at **Exh. 47**. This is an application filed by the plaintiff seeking status quo against defendant No.6.

2. The learned counsel of the plaintiff submitted that they had filed status quo application below **Exh. 30**. However, the application was rejected on 10/07/2024. Thereafter, they filed lis pendens application before sub-registrar on 03/08/2024. Thereafter, the next day was fixed on 05/08/2024. Compromise talks took place between plaintiff and defendant. Thereafter, the next day was fixed on 18/09/2024. In the meantime, the defendant no. 6 in collusion with defendant no. 1 to 5 got the allotment of the plot in his favour from CIDCO. Thereafter, CIDCO passed allotment order in favour of defendant no. 6 on 11/07/2024. Thereafter, allotment letter was issued in favour of defendant no. 6 on 01/08/2024. Hence, they filed complaint before chief land officer, Belapur, Navi Mumbai on 05/08/2024 not to allot lease in favour of defendant no 6. However, on 08/08/2024, chief land officer executed Agreement to lease between CIDCO and defendant no. 6. Thus, the plaintiff prayed that status quo be granted against defendant no. 6 restrained him

from registering agreement to lease, restrained him from executing tripartite agreement with third party and not carry on construction over the suit property. Hence, they prayed application be allowed.

3. The Learned Counsel of the defendant No.6 submitted that the present application is not tenable and liable to be rejected. On 08/08/2024, CIDCO has executed registered agreement to lease in favour of defendant No.6. Hence, the suit of the plaintiff has become infructuous. The plaintiff had earlier filed application for status quo in April 2024, which was rejected by the Court. Their application under Section 8 of the Arbitration and Conciliation Act and application under Order 7 Rule 11 of the C.P.C. is pending, hence, the present application is not tenable. The defendant No.6 was protected tenant of the suit property. He is in possession of the suit property since 1939. The possession of the suit property has been defendant No.6. The plaintiff has filed writ petition before the Hon'ble High Court against the order passed by Chief Land Officer dated 05/08/2024. Hence, the application be rejected.

4. On perusal of the prayer of the plaintiff, it is clear that, the plaintiff is seeking status quo against the defendant No.6 restrained him from registering agreement to lease. The Plaintiff has filed the said application on 12/08/2024. However, on 08/08/2024 Agreement to lease was already registered between defendant no. 6 and CIDCO. The plaintiff has not pleaded in suit regarding the allotment order passed by CIDCO in favour of defendant no. 6 on 11/07/2024. The plaintiff has challenged the order passed on 11/07/2024 before, Hon'ble Bombay High Court by filling Writ petition no. L-214608. Hence, no case is made out

by the plaintiff for grant of status quo as prayed. Hence, the order-

ORDER

1. The application is rejected.

Date: 03/09/2024
Place: Panvel

(N. S. Kakade)
3rd Jt. Civil Judge S.D.,
Panvel.