

ORDER BELOW EXH. IN SPL.C.S. NO.365/2022
(Order below application of status quo dated
25/04/2023)

01] The present suit is filed for specific performance. The plaintiff appeared before the court and filed an application for temporary injunction. He submitted for status quo till the hearing of application below Exh.5. Defendants appeared in the matter and filed their written statement as well as say on Exh.5 on record. Heard.

02] It is submitted by plaintiff that, defendant No.1 to 3 executed an agreement to sell dated 10/11/2020 with the plaintiff regarding suit property. The said agreement was notarized before Adv. Vaishali Pradhan. It is further submitted that, at the time of execution of agreement plaintiff has paid Rs.1,00,000/-. Thereafter, plaintiff again paid Rs.30,000/- to the defendant. Plaintiff always ready and willing to pay remaining consideration.

03] Plaintiff continuously followed defendant for sale permission regarding suit property. On 03/02/2022, defendant denied to handover the suit property to the plaintiff, submitting that they got another purchaser of the suit land with the highest price. In short, plaintiff submitted that defendant threatened them to destroy agreement to sell executed between them. Defendants are trying to create third party interest by getting permission under section 43 of the Tenancy Act. In such circumstances, plaintiff will suffer with irreparable loss. Hence, he prayed for status quo against defendant.

04] It appears from the record that, defendants filed their written statement as well as say on application below Exh.5 regarding temporary injunction. In that written statement they have submitted that, as per agreement to sell dated 10/11/2020, plaintiff has issued cheque of Rs.1,00,000/-. According to defendant, the said cheque was dishonored. It is submitted that, the consideration of Rs.1,00,000/- was paid on the next day of the agreement. As mentioned above the cheque given on that day for another Rs.1,00,000/- was not honoured. The plaintiff also has not brought any document showing consideration was accepted by defendant. Even plaintiff has also not shown urgency for status quo instead of proceeding with the application for temporary injunction.

05] The say was not filed to the status quo application. But, it was there on the application below Exh.5. It appears from the record that, pleadings are already completed. Hence, instead of status quo it will be proper to proceed with the application below Exh.5. Hence, the order-

ORDER

1. The application of status quo is rejected.
2. Parties to proceed with the argument on Exh.5 within 10 days.

Panvel (A.A. Godse)
Dated : 23/08/2023 2nd Jt. Civil Judge, Sr. Dn., Panvel.