



**Order below Ex.52 in RCS 50/2019
Soma Rathod Vs Dhannavva Kamble**

The application is under Order 39 Rules 1 and 2 of the Code of Civil Procedure, 1908 (the C.P.C).

2 Perused the application, and the record.

3 The application to proceed without say.

4 Heard.

5 The suit is for a decree of Specific Performance. The defendant has contested the claim by filing written statement below Exh. 13 and objected to the claim.

6 Brief facts :- The application is premised on the ground, that the suit property is more particularly mentioned in para 1 in the plaint. There was an Agreement of Sale (the AoS) executed by defendant in favour of the plaintiff for valuable consideration of Rs.1,25,000/- (Rs.One Lakh Twenty Five Thousand only) out of which an amount of Rs.1,05,000/- (One Lakh Five Thousand only) has been paid by the plaintiff, to the defendant while executing the registered AoS on 05/10/2010. It was an essential condition that the defendant has to obtain the necessary permission for the suit property being of occupancy class 2 that is of restricted tenure. The defendant obtained the requisite permission on 18/08/2017. The plaintiff approached the defendant, who failed to perform her part. The plaintiff issued notice on 30/05/2018. Hence, the present suit alongwith an interim injunction application.

7 Brief facts of the defendant's case:- The defendant has denied that the transaction was of AoS. It was contended to be a hand loan agreement whereby the defendant has advanced hand loan of Rs.1,25,000/- (Rs.One Lakh Twenty Five Thousand only) out of which an amount of Rs.1,05,000/- (One Lakh Five Thousand only) was paid by the plaintiff to the defendant, as a security, for the hand loan, the document was executed. After 6 months from the AoS, the defendant visited the plaintiff alongwith the panchas, the plaintiff refused to accept the amount and thereby, delayed the cancelation of the deed. The deed was not to be acted upon. The market value of the land is much higher than that mentioned in the deed. Hence, the suit is objected to.

8 As a matter of fact and record, the AoS is a registered document. It prima- facie, mentions of the transaction, which prima facie appears to be a transaction of the AoS. The requisite permission has been produced on record below Exh.3/Sr.No.4. The copy has been same has been directed to the present plaintiff. The prayer is to restrain the defendant from creating a third party right, title and interest in the suit property.

9 It is settled law, that the AoS can not confer a title on the plaintiff.

10 The Ld.advocate Shri.C.S. Mathapati, orally requested for a date for say/arguments. For the above reasons, when the registered deed prima facie suggest the nature of the transaction and the prayer is to restrain the defendant, from creating right, title and interest, it would be just, legal, and proper to protect the plaintiff for a limited period and extend an final opportunity to the defendant, to contest the interim injunction application. The plaintiff prove the prima facie case till next date. Hence, the following

Order

The defendant, her agents, servant, attorney or anybody claiming through her is hereby restrained by way of ad-interim order from creating any third party right, title and interest in the suit property more particularly mentioned in para 1 of the plaint, in any manner what so ever, till next date.

2 The plaintiff to comply Order 39 Rule 3 of the Code of Civil Procedure, 1908.

Jath
Date:-01/01/2026

(Sanjay P. Bunde)
Jt C.J.J.D, Jath