

Sayali Upasani

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

APPEAL FROM ORDER NO.- 313 OF 2023

WITH

INTERIM APPLICATION NO.-3947 OF 2023

Jhabarmal Bhagvanram Jhangid ...Appellant
(Org. Plaintiff)

Vs.

Chandraprakash L. Bubna & Ors. ...Respondents
(Org.
Defendants)

Mr. Rahul Kedar a/w Savita N. Malkampate & Anisha Rane, for
the Appellant/Plaintiff.

Mr. D. Shah a/w H. Sagar i/b Mr. Piyush M. Shah, for the
Respondents.

CORAM:- N. J. JAMADAR, J.

DATED:- 26th APRIL, 2023

PC:-

- 1) Heard the learned Counsel for the parties.

2) By the impugned order the learned Civil Judge declined to grant interim injunction restraining the respondents/defendants from creating third party interest in the suit property, which the respondents/defendants had agreed to sale to the plaintiff/appellant under an agreement for sale dated 6th May, 2014.

3) There is not much controversy over the fact that the respondents/defendants have received a sum of Rs.35,00,000/- under the suit agreement.

4) The learned Civil Judge declined to exercise the discretion, *inter alia*, on the ground that the suit agreement is not registered. The said view of the learned Civil Judge does not seem to be in consonance with law as an agreement for sale is not required to be compulsorily registered.

5) Issue notice to the respondents, returnable on 14th June, 2023.

6) The learned Counsel waives notice for the respondents.

7) The learned Counsel for the respondents seeks time to file affidavit-in-reply.

- 8) Though the respondents/defendants deserves an opportunity to file affidavit-in-reply yet the interest of the plaintiff/appellant also deserves to be protected.
- 9) Let affidavit-in-reply be filed on or before 7th June, 2023 and copies served on the appellant.
- 10) In the meanwhile, the respondents/defendants should not create third party rights in respect of the agricultural lands bearing Gut No. 7 and Gut No. 29 situated as village Palsai, Taluka Wada, District Palghar.

[N. J. JAMADAR, J.]