



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 3801 OF 2026

**PRAKASHPUR COOPERATIVE HOUSING SOCIETY MIDDLE
CLASS LTD THR PRADEEP DANİYAL KAMBLE AND
ANOTHER
VERSUS
BAPU YESHANT KAMBLE DECEASED THR LRS KISHOR
BAPU KAMBLE AND ANOTHER**

...
Mr. Yuvraj Vijayrao Kakde, Advocate for the Petitioners.
Mr. K. J. Suryawanshi, Advocate for Respondent No.2.

...
**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 15th APRIL, 2026.**

P.C.:-

1. The present Writ Petition takes exception to order dated 26.07.2024 passed below Exhibit-9 by District Judge-4, Ahmednagar in Regular Civil Appeal No.220/2023.
2. The petitioners are original plaintiffs in Regular Civil Suit No.22/2017. The learned Trial Court dismissed suit vide judgment and order dated 09.11.2023. Aggrieved plaintiffs filed Regular Civil Appeal No.220/2023, which is pending before District Judge at Ahmednagar. During pendency of aforesaid Appeal, petitioners/plaintiffs filed application below Exhibit-9 seeking relief of temporary injunction against respondent no.2 (original defendant no.2) that he shall not alienate or create third party interest in suit property in any manner. The Appellate Court rejected petitioners' application observing that there is no basis in apprehension of petitioners/plaintiffs that defendant no.2 has

created any third party right or likely to create third party right in suit property. The Court has further observed that protection under Section 52 of Transfer of Properties Act would be available to plaintiff's Society.

3. Mr. Kakde, learned Advocate appearing for petitioners points out that during pendency of Appeal, particularly after rejection of application Exhibit-9 by Appellate Court, defendant no.2 has transferred property in favour of third person and petitioners/plaintiffs have already made application before Appellate Court for adding third party in Appeal and petitioners/plaintiffs would be filing application before Appellate Court for similar relief against added respondents.

4. In light of aforesaid submissions, it is apparent that prayer in application Exhibit-9 was only against defendant no.2/respondent no.2 to restrain him from transferring or alienating suit property in favour of third person. However, now property is already sold by respondent no.2 in favour of third person. Therefore, there is no reason to entertain present Writ Petition, as its prayers have lost sanctity. However, if petitioners' application for adding purchaser as party in Appeal is favourably considered, certainly petitioners/plaintiffs would have cause of action to raise claim for grant of temporary injunction against purchaser. In the event such an application is filed by petitioners,

Appellate Court shall consider and decide same independently, without influenced by observations made in impugned order.

5. With aforesaid observations and liberty, Writ Petition stands disposed of.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/April-2026