

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).12985/2025

[Arising out of impugned final judgment and order dated 15-04-2025 in AAO No. 1/2025 passed by the High Court of Judicature at Bombay at Nagpur]

MAHESH & ANR.

Petitioner(s)

VERSUS

J. P REALTIES PVT LTD & ORS.

Respondent(s)

FOR ADMISSION and I.R.

IA No. 175342/2025 - EXEMPTION FROM FILING O.T.

IA No. 175340/2025 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

IA No. 283635/2025 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

IA No. 252298/2025 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

Date : 18-08-2026 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.B. PARDIWALA

HON'BLE MR. JUSTICE K. VINOD CHANDRAN

For Petitioner(s) :Mr. Gopal Subramaniam, Sr. Adv.
Mr. Krishnamohan K., AOR
Ms. Dania Nayyar, Adv.
Ms. Gauri Subramaniam, Adv.
Mr. Raghav Kohli, Adv.
Mr. Siddhant Juyal, Adv.
Mr. Rahul Vyas, Adv.
Mr. Piyush V Chouria, Adv.
Mr. J.S. George, Adv.
Mr. Ankit Malhotra, Adv.
Ms. Priya, Adv.
Ms. Prerna Jain Kala, Adv.

For Respondent(s) :Mr. Mukul Rohatgi, Sr. Adv.
Mr. Rajat Joseph, AOR
Mr. Hrishikesh S. Chitale, Adv.
Mr. Rutej Pimpalkhute, Adv.
Mr. Kaustubh D Kadasne, Adv.
Mr. Sumit Kumar, Adv.

Mr. Rohit Anil Rathi, AOR
Ms. Niharika Singh, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. The petitioners are the plaintiffs in a suit for specific performance, who are aggrieved with the denial of injunction, by the trial court and also by the High Court in appeal, which orders are impugned herein.
2. We have heard Sri Gopal Subramaniam, learned Senior Counsel appearing for the petitioners and Sri Mukul Rohatgi, learned Senior Counsel appearing for the respondents.
3. On facts, suffice it to notice that the suit for specific performance was opposed on the contention that the agreement of sale was only to secure a loan advanced. The trial court found on examination of the facts coming out from the records that there was in fact an arrangement between the petitioners and the respondents. The respondents were also aware of the construction being carried out in the property, after obtaining sanctions and permissions from the local authority. Text of WhatsApp messages produced also indicated money transactions in aid of the construction and not as an advance in pursuance of an agreement to sell. The trial court found suppression on the part of the plaintiffs and prayer for interim injunction.
4. The High Court concurred with the order of the trial court and found that essentially the question is as to whether the agreement was one intended for sale of the property or a joint venture.

However, the suppression found by the trial court as against the plaintiffs was concurred with and the injunction prayer was declined. The order of status quo granted by the trial court was extended, limited to the 50% saleable area, wherein the defendants were directed not to create any third party interest for four weeks only to enable the petitioners to approach this Court.

5. We were not inclined to interfere with the order passed by the trial court and affirmed by the High Court. Sri Gopal Subramaniam, then prayed that the interim order, as granted by the High Court may be made absolute till the disposal of the suit. The said contention was raised on the ground that even if the defense is accepted and there is no claim for specific performance, still the petitioners would be entitled to 50% of the saleable area.

6. Sri Mukul Rohatgi, however, opposed the said claim and asserted that there was not even a joint venture and it was just a financial transaction and there cannot even be a claim of right to 50% of the saleable area.

7. Admittedly, the development work is going on, as carried out by the defendants, who are the owners of the property. The development is also intended at creating third party rights, and in such circumstances, we do not think there is a reason to impair the development activity or prohibit the owners of the property from creating third party interests, especially since that is the very intention of carrying out the development of the land. We would also not want the unsuspecting third parties inducted therein to suffer on account of the suit agitated before the trial court between the petitioners and the respondents.

8. On the above reasoning, we confirm the order passed by the trial court, rejecting the injunction sought for. We make it clear that if at all the petitioners are found to have a claim against the property, either for specific performance or a share in the saleable area, the same can be made good by the computation of damages by the trial court. This would enable the project to go on and protect the innocent purchasers if third party rights are created and also enable a fair adjudication of the dispute between the parties in the suit.

9. With the above observations, the special leave petition stands disposed of, leaving open all contentions of the parties to be agitated in the suit, untrammelled by any observation made by the High Court and this Court.

10. Pending application(s), if any, shall also stand disposed of.

(HARPREET KAUR)
COURT MASTER (SH)

(POOJA SHARMA)
COURT MASTER (NSH)