

MHAU020016542021

**Order below Exh.22**

The instant application has been filed by the plaintiff for getting urgent relief.

02. It is contended in the application that the notices are issued on 28.04.2021 to the defendants as to why temporary injunction application shall not be granted as prayed for. It is further contended that the defendant No.4 has started converting the property of deceased in his own name and started creating third party interest. The defendant No.4 has already converted the electricity bill from the name of deceased to his own name and also started fencing the properties belonging deceased Mohammad Yunus more particularly in Gut No. 47. It is further contended that the defendants No. 5, 7 and 9 made efforts to alienate the property by creating sub class within the family. The defendants No. 4 and 9 systematically want to give custody of the bungalow in prime location in the hands of defendant No.1 and then they will take advantage of her old age. It has also come to the knowledge of plaintiff that the defendants No.4 and 9 is desires of selling the huge property to construct grand mall or hotel at the cost of legal heirs of deceased Mohammad Yunus. It is further contended that the defendants No. 4, 5, 7 and 9 are illegally trying to grab the major portion the suit property. The rents also collected mainly by

defendant No. 1 and 4. Therefore, by this application urgent relief regarding mandatory injunction restraining the defendants in any manner dealing with properties and estate of the deceased also prayed permanent injunction and prayed depositing monthly rent in the court.

03. Heard learned counsel for the plaintiff. Perused the record it appears that some of the defendants are appear in the suit and the defendant No.4 filed his say and prayed to reject the application. The remaining defendants who have appeared in the suit never filed their say though opportunities have been given to them. On perusal of the record and documents it reveals that already my predecessor has rejected the prayer of plaintiff regarding ex-parte ad-interim injunction. The plaintiff is again praying ex-parte urgent relief by filing this application. The plaintiff additionally placed on record the document regarding electricity bill and document of vehicle particulars. Except these two documents there is no such change in circumstances. This is an suit for partition therefore nothing is on record to make difference as to properties. Learned counsel for the plaintiff relied upon the ratio laid down in C. Kunhammad V/s C. H. Ahamad Haji [2000 CJ (Ker) 53] and ratio laid down in Deshmukh and company (Publishers) Pvt. Ltd. Vs. Avinash Vishnu Khandekar, 2005 CJ (Bom) 313.

04. As already the prayer of ex-parte ad-interim injunction has been rejected and no such prima-facie case established again by the plaintiff for granting the urgent relief. Therefore, the

application stands rejected in the interest of justice and parties are directed to proceed further with the application for temporary injunction.

Date : 08.10.2021

(Dr. Smt. Ujwala Musale)
12th Jt. Civil Judge (Sr. Division),
Aurangabad.

C E R T I F I C A T E

I affirm that, the contents of this PDF file Order are same, word to word as per the original Order.

Name of the Stenographer	:Farid Ukhardu Tadavi
Court	:12 th Jt. CJSD Court, Aurangabad.
Order date	:08.10.2021.
Order signed by the	
Presiding Officer on	:08.10.2021.
Order uploaded on	:09.10.2021.