


MHAH050008442022 	<u>ORDER BELOW EXH. 05 IN R.C.S. NO.280 /2022.</u> <u>Premuni Pantbaba Mahanubhav</u> <u>Vs.</u> <u>Pantbaba Mahanubhav @ Mohit Pantababa</u>
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This is an application under Order 39 Rule 1 and 2 of the Code of civil Procedure filed by plaintiff for grant of temporary injunction to restrain the defendants from obstructing his enjoyment of possession of the suit property, during pendency of the suit.

2. The suit property is consisting of the area of 333 sq. mtr. in city survey no. 2024/A in gut no.46/1 to 2/207 situated in ward no.7, Belapur road within the Municipal area of Shrirampur Dist. Ahmednagar (hereinafter referred as suit property for sake of convenience.)

3. It is the case of the plaintiff that he has purchased the suit property by way of registered sale deed bearing no.3527/2020 dated 13.11.2020 and since then he is enjoying the same as owner thereof. The mutation entry of the sale deed was also effected in the revenue record of the suit property. The defendant no.1 is the follower of Mahanubhav sect and he is residing in the Mahanubhav Ashram situated at ward no.7. He had illegally obtained the seat of Mahant Anil Gurupantbaba Mahanubhav after his death. The defendant no.1 had collided with other defendants and registered an illegal trust with the Charity Commissioner, Ahmednagar in the name of Mahanubhav Ashram and educational institution Shrirampur and shown the suit

property as the property of the trust. They have also included the suit property in the schedule of the trust in an illegal manner. The said fact was revealed to the plaintiff when he approached the city survey office for effecting his name in its record. The defendant nos. 1 to 7 have also filed a Special Civil Suit No. 37/2020 before this Court claiming the suit property. By taking advantage of these proceedings, the defendants have started threatening the plaintiff and attempted to dispossess him from the suit property. Therefore, he prayed for restraining the defendants from doing so by way of grant of temporary injunction as above noted.

4. The defendant nos.1 to 3, 5 and 6 vide their written statement cum say at Exh.27 denied and disputed the claim of the plaintiff. They submitted that the suit property is the trust property and therefore, this Court lacks jurisdiction to try and entertain the application of the plaintiff. According to them the suit property has not been described by the plaintiff in a proper manner. They submitted that the suit property was originally owned by one Nanasaheb Gangadhar Khandagle. He had alienated the same in favour of Pantraj Guru Mukundraj Mahanubhav by way of registered sale deed dated 07.01.1969 for the consideration of Rs.1,500/-. He had started Mahanubhav Ashram in the suit property. He was residing there along with his disciples. After his death his seat was succeeded by Anil Guru Pantrajbaba Mahanubhav. Said Anil Guru died on 14.12.2017. His seat was succeeded by the defendant no.1. Accordingly, the said seat was an inheritable seat of Mahanubhav sect and the plaintiff was also residing with defendant no.1 as the member of said sect. The defendant no.1 is

maintaining all the disciples and the property of the trust. In that capacity, he is having control over the suit property. In spite of such fact, one of the member of the sect i.e. Tapaswini Sudeshbai Guru Baleraj shastri Mahanubhav had mutated the suit property in her own name in the record of the city survey office on 26.03.1987 i.e. after the death of Mukundraj, instead of name of Anil Guru Pantraj Mahanubhav. The plaintiff disliked the fact that the defendant no.1 succeeded to the seat of Mukundraj after his death and he got executed the sale deed of the suit property in his favour by misleading the said Sudeshbai and one Pramilabai. They had no right or title over the suit property and they were never in possession of the same. The suit property is consisting of one Shrikrishna Temple, residential house of Mahant as well as the separate buildings of the said ashram and in spite of the same the plaintiff has shown it as an open plot while executing the sale deed which shows that the sale deed is nominal one, executed with a view to disrespect and disrepute the Mahanubhav Ashram. In view of this, the defendants have preferred the Spl. C.S.No. 37/2020 against the plaintiff and in the interim, the change report of the suit property in the name of trust has also been accepted by the Asst. Charity Commissioner Ahmednagar on 15.03.2022. Accordingly, the suit property has been added in the schedule of the trust as its property and therefore, neither the application of the plaintiff for grant of injunction is maintainable nor his suit.

5. Considering the rival pleadings of the parties and documents produced in support thereof following points arise for my determination to which I record my findings thereon for reasons to

follow :-

Sr.No.	Points	Findings
1.	Whether the plaintiff has prima facie case in her favour ?	In the affirmative.
2.	Whether the balance of convenience lie in favour of plaintiff ?	In the affirmative.
3.	Whether the plaintiff would suffer irreparable loss if injunction is refused ?	In the affirmative.
4.	What order ?	As per final order

REASONS

6. Heard learned counsel for both the parties.

7. Perused number of documents produced by both the parties on record. The plaintiff has relied upon the sale deed dated 07.01.1969, the consent deed dated 14.09.2020 executed by Krushnabai Aradhya, the affidavit of defendant no.1 before notary, 7/12 extract of the suit property, ferfar no.8462, sale deed dated 03.11.2020 executed in favour of plaintiff, the notice of inquiry issued by Asst. Charity Commissioner, the affidavit of defendant no.1 before Asst. Charity Commissioner, photographs of the suit property.

8. Before proceeding to discuss the facts of the case, it must be stated that the grant or refusal of temporary injunction is an equitable relief based on the principles of justice, equity and good conscience. A person seeking equity must do equity. It is also settled position of law

that a person seeking equitable relief must approach the court with truthful facts so as to establish his entitlement to the discretionary relief of temporary injunction.

As to point no.1 to 3 :-

9. Before proceeding to discuss the facts of the case, it must be stated that the present defendant no.1 has filed the Spl.C.S.No. 37/2020 before this Court in respect of the suit property and challenged the sale deed dated 03.11.2020 executed by Sudeshbai and Pramila in favour of the present plaintiff. The said suit is pending for trial and in fact, the defendant no.1 has also prayed for grant of temporary injunction in the said suit by way of which it is prayed that the defendants shall not create any third party interest in the suit property on the basis of said sale deed.

10. It is clear from the facts delineated by both the parties on record that the plaintiff and defendants are the followers of Mahanubhav sect. It is also settled position on record that the suit property was purchased by Mahant Pantraj Guru Mukundraj in his name by way of registered sale deed on 07.01.1969. After his demise, the seat was inherited by his disciple Mahant Anil Mahanubhav. He died on 14.12.2017. As the defendant no.1 succeeded to the seat, the dispute started between the parties and it is apparent from record that the sale deed of the suit property was executed by the disciple Sudeshbai (real sister of Mahant Pantraj Guru Mukundraj) and one Pramila Guru Indubai on the basis of mutation entry executed in their favour, by treating them as his legal heirs.

11. The plaintiff claimed the temporary injunction on the basis of title to the suit property based on the registered sale deed whereas the defendants have challenged the said sale deed by contending that the sale deed was executed by way of misleading caused by the plaintiff to both these disciples. Therefore, facts narrated before the Court necessarily goes to show that these two disciples i.e. Sudeshbai and Pramila Guru Indubai have not succeeded to the suit property on the basis of their blood relationship with Mahant Pantraj Guru Mukundraj. The contents of mutation entry produced on record nowhere show that their names were mutated in the record of the suit property on the basis of their blood relationship and rather it is based on they being the followers of Mahanubhav sect. Therefore, it is apparent that the suit property is alienated by Sudeshbai and Pramila in favour of plaintiff in their capacity as the followers of Mahanubhav sect. It may not be out of place to mention here that neither of the parties have brought any facts on record at this interim stage to show the rules or the customs of the Mahanubhav sect by way of which it can be discerned that the property of the sect or its temples shall be disposed of in any particular manner. In these background facts, the sale deed in question assumes importance. No doubt the plaintiff has claimed ownership of the suit property on the basis of sale deed however, it is also a fact that he is one of the followers of Mahanubhav sect. The plaintiff specifically contended that the suit property is an open plot however, the photographs produced on record show that it is having structures standing thereon. The defendants have specifically contended that the suit property is consisting of Shrikrishna Temple and houses of their

Mahant as well as of his disciples, therefore the contention of the plaintiff doesn't appear to be based on the factual position of the suit property.

12. A conspectus reading of all these facts gives rise to an inference that the sale deed on the basis of which plaintiff is claiming title is executed by the persons whose title in itself is in doubt. At the same time, the defendant no.1, who has succeeded to the seat of Mahanubhav sect is a person who may be entitled to claim the inheritance to the property of the Ashram of the said sect. He has also prayed for grant of injunction in the Spl.C.S.No. 37/2020. In such view of the matter grant or refusal of interim injunction may result into chaos as the daily chores of Ashram are also likely to be affected, as a result of any such order. Therefore, I am of the opinion that the interest of justice mandates that instead of granting a blanket temporary injunction in the form of restraining the defendants from interfering in the possession of the plaintiff over the suit property, directing the parties to maintain the status quo as on today in respect of the suit property till decision of the suit would serve the purpose. This relief is justifiable in view of the undisputed fact that the defendant no.1 is, at the moment presiding over the activities of Mahanubhav sect, in the suit premises. To that extent, it is observed that the plaintiff has established prima-facie case in his favour and the balance of convenience also lie in his favour as well as he being a registered owner would suffer irreparable injury in the event of refusal of temporary injunction. Hence, I answer point nos. 1 to 3 in affirmative and proceed to pass following order:-

ORDER

1. Application Exh.5 is partly allowed.
2. The parties are directed to maintain status quo with respect to suit property, as on today, till disposal of the suit.
3. Cost in cause.

Date: 23/08/2023

(R.B.Giri)
Civil Judge Sr. Division,
Shrirampur.