


MHAH050011722020	<b><u>ORDER BELOW EXH. 05 IN Spl.C.S. NO. 37/2020.</u></b>
	<b><u>Shri Chakradhar Mahanubhav Ashram</u></b> <b><u>Vs.</u></b> <b><u>Sudeshbai Guru Baleraaj</u></b>

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 creating third party interest in the suit property, during pendency of the suit.

2. The suit property is consisting of 1A) 5R land in City survey no. 2024 (city survey no.52) situated at Ward no.7, Shrirampur, Dist. Ahmednagar having boundaries as under :-

- East - Shrirampur Belapur road
- West - Old road
- South - Remaining land of city survey no.2024.
- North - Outlet(चारी) and city survey no.2025.

1B) Open plot bearing no. 49/1 to 2/260 out of city survey no. 2024/A, final plot no.38 out of T.P. Scheme no.1 admeasuring 333.33 sq.mtr. situated within the Municipal area of Shrirampur having boundaries as under.:-

- East - Shrirampur Ahmednagar road.
- West - Service road and building of Mhada.
- South - Property of Shri.Bankar

North - Outlet(चारी) road and city survey no.2025.

(Here-in-after referred as suit properties for sake of convenience.)

3. It is the case of the plaintiff that the suit property at sr.no.1A was originally owned by Nanasaheb Gangadhar Kahandagle. It was purchased by a religious teacher of Mahanubhav sect namely Pantraj Guru Mukundraj on 07.01.1969 for the consideration of Rs.1,500/- by way of the registered sale deed. Said Pantraj started Shri.Chakradhar Mahanubhav hermitage (Ashram) in the said place. His disciples were residing in the said hermitage with him. After his death, his seat as Mahant or religious teacher was succeeded by Keshvraj Shastri Mahanubhav. He was succeeded by Anil Guru Pantraj Baba Mahanubhav, after his demise. Said teacher Anil died on 14.12.2017. His seat was succeeded by the plaintiff. The plaintiff is looking after the Mahanubhav hermitage and the disciples residing there. The plaintiff has been duly appointed as the religious teacher of Mahanubhav sect. In spite of such fact, the defendant nos.1 and 2 have entered their names in the city survey record of the suit property at Sr.no.1A as the legal heirs of deceased Pantraj. On the basis of said entries of the city survey record, the defendant nos.1 and 2 have executed a registered sale deed of the suit property at Sr.No.1B in favour of defendant no.3, in an illegal manner. The defendant nos.1 and 2 had no right or title to the suit property. On the basis of said sale deed, the defendant no.3 started obstructing the daily chores of the hermitage and tried to break the discipline of the hermitage. The defendant no.3 started claiming ownership of the suit property and

disrespected the customs of the hermitage as well as the plaintiff and his status as the Mahant of the said hermitage. He started to instigate the followers of Mahanubhav sect against the said hermitage. On the basis of said sale deed, the defendant no.3 is trying to create third party interest in the suit property. Therefore, the plaintiff has prayed for grant of temporary injunction in above terms.

4. The defendant nos.1 to 3 vide their written statement / say at Exh.16 denied and disputed the claim of the plaintiff. They submitted that after the death of Pantraj Guru Mukundraaj, the suit properties were mutated in the name of defendant nos. 1 and 2 and since then they were enjoying their possession as owners thereof. The mutation entry was effected on 26.03.1987. The said mutation entry was never challenged by any of the parties. The defendant no.1 is the niece of deceased Pantraj and she was entitled to succeed to his property which was owned by him in his personal capacity. In pursuance of her such status, the sale deed dated 03.11.2020 was executed in favour of defendant no.3. The defendant no.3 has become owner of the suit property on the basis of said sale deed. The plaintiff has no right to claim the status of Guru or religious teacher of Mahanubhav sect as well as to claim the suit property and therefore, the application is liable to be rejected.

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 produced on record the sale deed dated 07.01.1969, the sale deed dated 03.11.2020, consent deed dated 09.05.2018, agreement dated 09.05.2018, property card.
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. At the outset, it must be stated that the present defendant no.3 has filed the R.C.S.No. 280/2022 before this Court on the basis of sale deed dated 03.11.2020 executed by defendant no.1 and 2 in his favour. The said suit is pending for trial and infact, the defendant no.3 has also prayed for grant of temporary injunction in the said suit by way of which it is prayed that the defendant shall not obstruct his possession over the suit property at Sr.No.1B during pendency of the suit.

10. In the background of above said facts, the prayer of the plaintiff for grant of injunction in the form of non alienation of the suit property during pendency of the suit requires to be adverted to. It is clear from the pleadings of both the parties that the suit property was purchased by Mahant Pantraj on 07.01.1969 by way of registered sale deed. He was the religious teacher of Mahanubhav sect. He raised an hermitage and maintained his disciples in the suit property. His seat was succeeded by Mahant Keshavraj and after his demise by Mahant Anil. Mahant Anil died on 14.12.2017. It is apparent from record that the suit properties were mutated in the name of defendant nos.1 and 2 on 26.03.1987 after the death of Mahant Pantraj. The said mutation had attained finality and on the basis of such mutation entry the defendant nos. 1 and 2 have executed the sale deed dated 03.11.2020 in favour of defendant no.3 thereby conferring title of suit property no.1B upon him. It is discernable from the pleadings that the plaintiff and defendants are the followers of Mahanubhav sect. It is also clear

from record that the defendant nos.1 and 2 have not inherited the suit properties on the basis of their blood relationship with the original Mahant i.e. Pantraj. No doubt, the defendant no.1 contended that she is the niece of Mahant Pantraj however, there is no document in the form of any deed or mutation entry or any certificate of the competent authority to show that she had succeeded to the property on the basis of her blood relationship. Even if it is presumed to be so, the defendants have not explained the mutation entry executed in the name of defendant no.2 and Mahant Anil along with her name. This gives rise to an inference that the suit property was inherited by defendant nos.1 and 2 on the basis of their following of the Mahanubhav sect. In such view of the matter, their authority to execute the sale deed in favour of defendant no.3 and thereby conferring the legitimate title in his favour is in question. It must be stated that neither of the parties have brought any material on record to show the custom or rules of inheritance of Mahanubhav sect either in respect of their hermitage or property. Therefore, at this stage, suffice to say that the creation of third party interest by the defendants in the suit property would not only create complications in the suit but also cause great obstruction in the daily routine of the hermitage. In such view of the matter, the plaintiff has established prima-facie case in his favour to the extent of his prayer of non alienation and similarly, the balance of convenience also lie in his favour as well as he would suffer irreparable injury in the capacity of Mahant of said hermitage in the event of refusal of grant of injunction. Therefore, I answer point no. 1 to 3 in affirmative and I pass the following order.:-

**ORDER**

1. Application Exh.05 stands allowed.
2. The defendants are restrained from creating third party interest in the suit property by way of alienation or in any other manner, during pendency of the suit.
3. Cost in cause.

Date: 23/08/2023

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