

Order below Exh.165 in RCS No.247 of 2014

(Raosaheb Patilbua Thorat Vs. Bhausahab Thorat)

This is an application filed by plaintiff with a prayer that additional issues needs to be framed. It is contention of the plaintiff that during the pendency of suit defendant no. 1 to 5 filed RCS No. 220/2014 for partition and defendant no.4 has sold gat no. 813/1 to defendant no.6 on 04/09/2017. Hence, issue “Does defendant no.1 to 5 prove that decree obtained by defendant no.1 to 5 in RCS 220/2014 is legal and valid”. Further “Does defendant no.4 to 6 prove that sale deed of gat no. 813/1 executed by defendant no.4 in favour of defendant no.6 dated 4/9/2017 is legal and valid” be framed.

2. Defendant filed their say. It is contention that application is false and denied by the defendant. There was no injunction in respect of sale of gat no. 813/1. Hence, application deserves to be rejected.

3. Heard learned advocate for plaintiff and defendant.

4. It is on record that during the pendency of the suit decree is passed in RCS No. 220/2014. Further it is on record that during the pendency of suit defendant no.4 sold land gat no. 813/1 to defendant no.6 on 04/09/2017. Both the transactions took place during the pendency of suit. Plaintiff has claimed relief in respect of decree in RCS NO. 220/2014 and sale deed in respect of gat no. 813/1. Hence, issue needs to be framed as under

Issue no. 2A : Does the plaintiff prove that decree in RCS No. 220/2014 between defendant no.1 to 5 is not binding on him ?

Issue no.2B : Does the plaintiff prove that sale deed in respect of gat no. 813/1 dated 04/09/2017 executed by by defendant no.4 in favour of defendant no.6 is not binding on the share of the plaintiff.

5. Above issues needs to be framed below Exh. 116. Hence, application is partly allowed and issues be framed below Exh.116.

Date: 29/09/2021

sd/-
(D. R. Badave)
C.J.J.D., Parner