

Order passed below Exh. 5 in Reg. Civil Suit No. 1024/2023

Plaintiff has prayed for issuance of ex parte ad interim injunction against the defendants. Heard learned advocate for plaintiff. According to plaintiff, defendant No.1 is in a preparation to alienate the suit properties mentioned in para 1B of the plaint as the defendant No.1 has entered into a deed for cancellation of the will bearing No.7638/2023 dated 01/11/2023. It is the case of plaintiff that he is the son of defendant No.1 and brother of defendant No.2. According to plaintiff, he is having a preferential right to purchase the suit properties mentioned in para 1B of the plaint and when he approached defendant Nos.1 to 3 for selling him the suit properties, defendant Nos.1 to 3 refused to sell the suit properties to him. The transaction of sale of defendant No.1 with third person namely Shivaji Shankar Mane with respect to the land of defendant No.1 is completed and in consideration, it has been accepted by him to repay the loan amount given by the bank in the name of defendant Nos.1 to 3. According to defendants, only the registration of sale deed is now left to be completed. Hence, with respect to apprehension of non-alienation, plaintiff has prayed for issuance of ad interim ex parte injunction. I have perused the record. The cause of action appears to be dated 08/11/2023. It is not the case of plaintiff that his land given to him at the time of partition is in a danger of being alienated. The non-alienation is sought in respect of the lands which have been given in favour of defendant No.1 by way of partition. Whether plaintiff is having a preferential right or not in respect of the suit properties mentioned in para 1B of the plaint, is a matter of evidence. Considering that the suit properties mentioned in para 1B of the plaint appears to be in the name of defendant No.1, ad interim ex parte

injunction can not be issued at this juncture without hearing the defendants. It would be appropriate to issue show cause notice to the defendants in order to adjudicate the application for temporary injunction on merits. Hence, issue show cause notice to the defendants. In case of urgency, E.P. and S.B. is allowed to the plaintiff.

Sd/-

(N.S.Sabnis)

Date: 22/11/2023

2nd Jt. Civil Judge, J.D., Parner.