

ORDER BELOW EXH.5 IN R.C.S. NO. 153 OF 2024

Heard Ld. Advocate Mr. P. D. Wankhade for the plaintiff. Perused the application and the record. It appears from the pleading and the document on record that, the plaintiff trust is the owner of the suit property and the defendant is the tenant. The plaintiff have produced rent receipt for the month of November 2006 on record. Therefore, it prima-facie appears that the defendant is the tenant in the suit property. It is alleged that, the defendant without the permission of landlord demolish the wall of suit property and started the new constructions of bricks. It is settled principle of Maharashtra Rent Control Act that the tenant can not erect permanent structure without the permission of the landlord. It is also important to mention that there is one old temple of Jain Community adjacent to the suit property. The said temple is also belongs to the plaintiff trust. The plaintiff have produced property extract of the suit property. It appears that, the property No. 124 is belongs to Digamber Jain Devasthan Trust. The defendant did not appears to be the owner of the said property. The plaintiff have produced the photographs of the alleged construction. It clearly appears that the construction is going on adjacent to the old pillars. As per the submission of the Ld. Advocate for the plaintiff that, the said pillar are the part of Jain Temple. The said pillar are appears to be very old. Due to the construction of the defendant possibility of damage to the old structure of the pillar can not be denied. Even, the defendant is appears to be the tenant he can not erect permanent structure without the permission of landlord. If, the defendant not restrained from

raising further construction then the said construction could caused damage to the old structure and till appearance the defendant could complete the construction. If, the ad-interim exparte injunction not granted then the purpose behind the TI application could be frustrated and irreparable loss will be cause to the plaintiff. The plaintiff have produced the recent photographs dtd. 11/11/2024 on record. The recent position of the construction is appears in the said photographs. If, the further construction is stop till filing the say then no harm will be cause to the defendant on the other hand irreparable loss will be cause to the plaintiff. This is the fit case to grant ad interim exparte injunction in favour of plaintiff. But, plaintiff shall cooperate to dispose of the application within the prescribed period given in Order XXXIX Rule 3A. Even, the plaintiff needs to make the compliance of direction given in the Order XXXIX Rule 3 of CPC. In view of above mentioned discussion I am going to pass following order:-

ORDER

1. The defendant is hereby temporarily restrained from raising further construction on the suit property till filing of his say.
2. The plaintiff shall produced today's photographs of the construction on record and to make the compliance of the Order XXXIX Rule 3 of Civil Procedure Code.

Date: 13.11.2024.

(A. H. Shaikh)
Jt. Civil Judge Junior Division,
Akot.

<u>AFFIRMATION</u>		
I affirm that the contents of this P. D.F. are in verbatim as per original order.		
1	Name of Steno	: R.C.Bajpai.
2	Court Name	: A. H. Shaikh, Judicial Magistrate, Jt. Civil Judge Junior Division, Akot.
3	Date	: 13/11/2024.
4	Signed by P. O. on	: 13/11/2024.
5	Uploaded on	: 14/11/2024.