

Order passed below Exh. 5 in R.C.S. No.280/2012
(Bansi shejwal Vs Uttam Shejwal)

- 1] The application moved under Order 39 Rule 1(a) of the CPC to restrain the defendant from alienating the suit property.
- 2] The defendant No.1 to 6 have not filed say. The defendant No.7 filed say and W.S. at Exh.74.
- 3] Heard learned Advocate Shri.K.S.Thombare for the plaintiff. The Ld. advocate Shri.S.K.Dalvi for the defendant No.7 repeatedly call he remained absent.
- 4] Perused application and say.
- 5] The suit is for partition. The plaintiff is contended that the suit properties are their ancestral and the joint property. Sakharam was the common ancestor. He and his wife Zholabai died. The defendant Nos.1 to 4 and the plaintiff are the son of the deceased Sakharam and Zholabai. The defendant No.1 executed false sale deed of the suit property I.e. 0.48R of gut No.57 and 0.20R of gut No.61 in favour of the defendant No.6. The plaintiff filed 7/12 extract of the suit property at Exh.45 to 52. It bears the name of defendant Nos.1 to 3.
- 6] The plaintiff filed mutation entry No.116 at Exh.53 which reveals that gut No. 61,46,30,57 are their ancestral property and on the demises of the deceased Sakharam, the name of plaintiff No.1 to 4 entered to respective properties. The mutation entry No.181 reveals that the

deceased Sakha Tuka Shejwal transferred 0.80R of the gut N0.15 to the defendant No.5 by partition. Accordingly mutation entry sanctioned on 08.12.1995. The mutation entry No.273 is relating to gut No.57 and gat No.61. The extract of mutation entry is at Exh.54 it reveals that the defendant No.1 sold 48R. out of gut 57 and 20R. out of gut No.61 vide sale deed dated 03.07.2003. The said mutation entry sanctioned on 05.08.2003.

7] The defendant No.7 come with case that the suit is bad for non joinder of necessary parties. Hence the suit and said application is not tenable.

8] As per document on record it reveals that the suit property belonging father of the defendant No.1 to 4. The defendant No.1 executed sale deed of some portion of suit property. The suit is for partition. If the defendants by taking advantage of their name on the 7/12 of the suit properties, they will dispose the suit property. It will create multiplication of proceeding and hardship will be caused to the plaintiff. On the contrary if temporary injunction in respect of restraining the defendants from alienating the undivided share of the plaintiff in the suit property is granted, no hardship will be caused to the defendants. At same time the purpose of the plaintiff will be serve.

9] Considering the nature of suit and documents on record as well as affidavit of the plaintiff. The plaintiff has prima-facie case. The defendants No.1 to 6 have not contested the suit. Balance of convenience in his favour. Irreparable loss will cause to his right if temporary

injunction rejected. Hence, I pass following order.

ORDER.

1. Application is allowed.
2. The defendants are restrained from alienating the undivided share of the plaintiff in the suit property till final disposal of the suit.

Sd/-

Date:- 20/02/2019.

(D.T. Jadhav)
2nd Jt. Civil Judge (J.D.),
Gangapur.

CERTIFICATE

I affirm that the contents of this P. D. F. file Judgment/Order are same, word to word, as per the original judgment.

Name of the Stenographer	:	Kishor R. Tandale.
Court	:	2nd Jt. Civil Judge, Jr.
Dn.,		Gangapur.
Date	:	20.02.2019
Judg. signed by the Presiding Officer on	:	20.02.2019
Judgment uploaded on	:	27.12.2019