

Regular Civil Suit No. 268/2020
Savita V/s. Subodh & others.
CNR No : MHBI060024402020.

ORDER BELOW EXH-5

- 01.** Heard the learned Adv. Shri. P.B. Kadam, for the plaintiff.
- 02.** Read the plaint, application for temporary injunction, and affidavits filed in support of the application for temporary injunction.
- 03.** Perused the documents. It has been submitted by the learned advocate for the plaintiff that, the present suit is preferred for the perpetual injunction. The learned advocate submitted that the defendant no. 1 and 2 are the sons of the brother of the present plaintiff. The father of the plaintiff during his lifetime has mutually partitioned the properties and thereby the plaintiff has become the owner of the agricultural land situated at Girwali (Bavane), Tq. Ambajogai, Dist. Beed, bearing Gat Nos. 10 and 12 to 15. The name of the plaintiff has been entered in the revenue extract of the suit properties, as the owner of the properties. The plaintiff is enjoying the usufruits of the suit property by appointing her agents and laborers for cultivating the said agricultural lands.
- 04.** The plaintiff further submitted that she is working as a doctor and a permanent resident at Aurangabad. The defendant no. 1 to 3 are taken undue advantage of the said situations and deliberately causing disturbances to the plaintiff's enjoyment over the suit property. Also, the defendant no. 1 to 3 are trying to encroached upon the suit property by taking illegal possession and causing destruction to the suit property. The plaintiff has requested on so many occasions to defendants as not to obstruct her possession and

enjoyment, however, the defendant no. 1 to 3 has abused her in filthy language and threatened her to dispossess her from the enjoyment of the suit property. Hence, the plaintiff was constrained to file the present suit for perpetual injunction in which the plaintiff has pleaded to grant ex-parte ad-interim temporary injunction.

05. The plaintiff further contended that the defendants have not any rights and interests in the suit properties. The defendants in order to obstruct the plaintiff's possession over the suit property and causing disturbances to the plaintiff's peaceful enjoyment over the suit property. Hence, the learned advocate for the plaintiff has pressed to issue the Ex-prate ad-interim injunction till the appearance of the defendant in the present matter.

06. Perused the application for temporary injunction in the light of submissions made by the learned advocate. The plaintiff has filed on record 7/12 extract of suit properties, which prima facie shows the name of the plaintiff as owner of the suit property. Prima facie the plaintiff has shown that she is the owner of the suit property as the revenue entries are standing in her own name. As per the settled law of this country unless and until the other party brings the rebuttable evidence, the entries in the revenue records are presumed to be genuine one. At this juncture it is not necessary for the plaintiff to show his prima facie case and balance of convenience. It is sufficient that the plaintiff has shown that he has an arguable point in his favour.

07. In such set of facts and circumstances in the present case the plaintiff has prima facie shown that she is the owner of the suit properties and she is enjoying her suit properties by appointing her

agents and laborers for cultivation of the said lands. At this juncture the plaintiff has shown an arguable point in her favour that if the injunction is not been granted the defendants will carry out obstruction which will result into dispossession of the plaintiff from the suit properties. If the injunction is not granted substantial loss will be suffered by the plaintiff which will definitely result into complications in the suit, and plaintiff will be put in more hardship by which the injunction order will become fruitless. If any delay occurs in grant of injunction such delay shall defeat the purpose of granting the injunction. Resultantly, I proceed to pass following order.

:: ORDER ::

- 01.** Issue ex-parte temporary injunction restraining the defendants from obstructing the peaceful possession of the plaintiff and her agents and laborers over the suit properties till the defendants appear in the present suit.
- 02.** Issue show cause notice to the defendants as to why ex-parte injunction should not be continued till further order or specified time, returnable on 30/12/2020.
- 03.** Special bailiff is allowed.
- 04.** Emergent process is allowed.
- 05.** The plaintiff shall comply with the provisions of Order 39 Rule 3(a) of Code of Civil Procedure, 1908.

Date: 14/12/2020.

(**C.M. Kharkar**)
3rd Jt. Civil Judge Junior Division,
Ambajogai (MHBI06-3003)