

ORDER BELOW EXH. 05

(Passed on 24th July, 2015)

Peruse application, reply. I have gone through the record of the case. Heard Ld. counsel Shri. Ugrade for the applicants and Ld. counsel Shri. Pathode for the non-applicant. In this application, applicants are seeking two interim reliefs. According to the counsel for applicant, non-applicant is constructing on the land of applicants unauthorizedly which required to be stopped by way of interim reliefs. The another contention of the applicants that non-applicant is disturbing the possession of applicants regarding 150 x 5 feet suit land. Hence according to the applicants, non-applicant is required to be restrained by way of temporary injunction from by disturbing peaceful possession of applicants.

2. The counsel for non-applicant filed pursis exh. 60 and submitted that the non-applicant has already completed the construction work. This fact is also admitted for the counsel of the applicants. In such circumstances question of granting interim reliefs regarding construction work does not arise.

3. So far as suit land area 150 x 5 feet which is shown in green colour in plaint map is concerned, it is contention for the non-applicant that it is in their possession since long. On the contrary, it is contention for applicants that the suit land is shown that in green colour is part and parcel of land of applicant i. e. city survey no. 112.

4. It is also contention of non-applicant that the suit land shown in red colour is in their possession since long, hence they have

made construction over it. On the contrary, according to the applicants suit land shown in red color in plaint map is the part and parcel of land city survey no. 104 which belongs to applicants.

5. Considering the above controversy in the matter, in my view for the proper adjudication of the matter it is necessary to have joint measurement of land of applicants i.e. city survey no. 112 and 104 as well as land belongs to non-applicant i. e. 114. The counsel for both the parties are ready for the joint measurement of the above mentioned suit lands. In such situation, in my view it will just and proper to direct both parties to maintain statue-quo in respect of suit land i. e. 150 x 5 feet which is shown in green colour in the suit map. Hence I pass following order.

ORDER

- 1) The T.I.L.R. Amgaon is hereby appointed as Court Commissioner for joint-measurement of suit land i.e. city survey Nos. 104, 112 and 114 of village Risama.
- 2) T.I.L.R. Amgaon is hereby directed to indicate in his report as to whether suit land shown in red colour in plaint map belongs to owner of city survey no. 104 or not? He further directed to indicate in his report as to whether suit land shown in green colour in plaint map is belongs to city survey No. 112 or not?
- 3) Applicants and non-applicant both have to bear the expenses of joint- measurement equally.
- 4) Both the parties to submit all the relevant documents to the T.I.L.R. Amgaon and pay the fee as required.

- 5) Writ be issued to the T.I.L.R. Amgoan for joint-measurement.
- 6) Applicants and non-applicant are directed to maintain status-quo in respect of suit land shown in green colour in the plaint map till further order.
- 7) With above observations application exh. 5 is filed.

Dated : 24/7/2015

-Sd/-
(A. D. Ramteke)
Civil Judge (Jr. Dn.), Amgaon.