

ORDER BELOW EXH. 12
[Passed On 18/3/2020]

The instant application is filed by plaintiff for grant of status-quo to the construction work carried out by the defendant No. 1 and 2 over the suit property belongs to defendant no. 3.

2] The Ld. Counsel for plaintiff Shri. Vaidya submitted that, the applicant/ plaintiff is the daughter of defendant No. 3 and without the permission of other daughters defendant no.1 and 2 started the construction work of Gharkul. He thus, prayed to grant a status quo till the filing of reply.

3] Per contra, the Ld. counsel for defendant submitted that, the defendant No. 3 has given due consent for the construction work of Gharkul of defendant No.1 and 2. Thus, plaintiff has no right to file the instant suit and resist the defendant's construction.

4] Perused the application, say and documents filed on record. Heard. It is an admitted fact that the suit house property belongs to the defendant No. 3. It is also prima facie shows as per the geneological tree that, the plaintiff is the daughter of defendant No.3. The plaintiff come with a case that, she is having a legal right over the property of defendant no.3 and no partition was previously effected between all the legal heirs. It appears that, the defendant No. 3 and all the other defendants have not filed the written statement. Though the defendant no.3 is owner of property but applicant/ plaintiff is also appears to be the legal heir of defendant No.3 and in that capacity she is having the prima facie legal right and share in property of defendant no.3. Thus,

construction of the house over suit property would breach the very right of plaintiff. Hence, in order to prevent the miscarriage of justice to any of the party, I pass the following order-

ORDER

- 1] Application partly allowed.
- 2] Both the parties to maintain the status quo till the filing of written statement.
- 3] No order as to costs.

Sadak Arjuni.
Date: 18/03/2020

[Nitin Dhoke]
C.J.J.D., sadak Arjuni.