

ORDER BELOW EXH. 29
(Dated 06.09.2024)

Plaintiff filed successive application for grant of status quo in present matter. Plaintiff humbly submitted that he has filed suit for Declaration, permanent injunction and Easementary Right along with Temporary Injunction. It is the contention of plaintiff that defendant no. 1 and 2 illegally started construction on Gat No. 100, and obstruct the way of plaintiff. There is no any substitute way to reach Gat No. 101. Therefore plaintiff is praying for grant of status quo in the interest of justice. Defendant no. 1 and 2 fail to file their say on present application.

2. The term 'status quo' has not been used in the Code. However, the latin term 'status quo' refers to existing state of circumstances on any given date. In the legal system, a Judge has the authority to issue a status quo order to prevent any one from taking any action, until the matter can be heard and resolved by the Court. A status quo order preserves the existing situation, so that no party's position can be compromised, or prejudiced until the matter has been resolved. As injunction must be against one party. However, the order of status quo operates against both the parties. Still under required circumstances such relief can be granted under inherent powers of the Court by invoking provisions of section 151 of the Code.

3. As a matter of general rule, the order of status quo should be

passed only when the existing position is prima-facie admitted in so far as the property is concerned. Order of status quo must be reflective of what it clearly means. It should not suffer from ambiguity. It is clear that, unless the status of the property is clear such order can not be granted and should be used sparingly. If inappropriate order of status quo is passed, it is likely to give rise to multiplicity of litigation.

4. Heard the learned advocate for plaintiff. He has filed application for taken on board the present matter. He humbly submitted before the court that there is an emergency, therefore he file application for status quo. It is the contention of plaintiff that defendant no. 1 and 2 again started illegal construction on suit property without prior permission. If construction is completed then the purpose of application of temporary injunction would be extinguished. Plaintiff will suffer irreparable loss which would not be measured in terms of money.

5. No doubt, plaintiff and defendants are legal heirs of deceased laxman. They are the member of same family. The name of father of plaintiff and defendant no. 1 and 3 are mutated in 7/12 extract of Gate No. 100 and 101. Prima-facie it shows that plaintiff and defendant no. 1 and 2 are owner and possessor of suit property. Unless and until both the parties adduce their evidence on record present suit would not be decide on merit. The rights of the parties shall be determine by following the civil procedure.

6. Considering the nature of suit, relations of the parties and gravity involved in the matter if status-quo is not granted and

construction is completed then irreparable loss may be caused to the either of the party. To determine the rights of the parties and to avoid the multiplicity of suit present application deserved to be granted. Therefore, It is just, fair and reasonable to protect the interest of both the parties.

7. Therefore, I come to the conclusion that there is no hurdle to allowed the present application. Hence, to meet the end of justice I pass the following order.

ORDER

- 1] Present application is allowed.
- 2] Both the parties are directed to maintain the status quo till next date i.e. **18.09.2024**.
- 3] In the interest of justice both the parties are directed to expedite the T.I. application and present suit.

(Dictated and pronounced in open Court)

Date : 06.09.2024

(Dr. Vikram A. Avhad)
Civil Judge Jr. Dn.,
Sadak Arjuni.

मी प्रमाणीत करतो की, या पीडीएफ फाईलमधील मजकुर व मुळ न्यायनिर्णय मधील मजकुर हा एकसारखा आहे.

लघुलेखकाचे नाव : आर. डी. भुजाडे
कोर्टाचे नाव : डॉ. वि. अं. आव्हाड,
दिवाणी न्यायाधीश क. स्तर
व प्रथम वर्ग न्यायदंडाधिकारी, सडक अर्जुनी

न्यायनिर्णय दिनांक : ०६.०९.२०२४

पिठासीन अधिकारी यांनी सही केलेली तारीख : ०६.०९.२०२४

न्यायनिर्णय अपलोड केलेली तारीख : ०६.०९.२०२४