

CNRNOMHJN05-000615-2018



ORDER BELOW EXH.NO. 30
(Passed on 23.01.2024)

01] By this application, the plaintiff is seeking order of status-quo in respect of suit property for not to alienate and not to change the nature of property till final disposal of the suit.

02] Read application and say. Heard, Shri V.G.Patil, learned advocate for the plaintiff and Shri J.P.Bagal, the learned advocate for the defendants. Perused record of the case.

03] It is contended by the plaintiff that the application of temporary injunction was filed with the plaint, but it is rejected by this Court. Being aggrieved by the order, the plaintiff preferred Miscellaneous Civil Appeal before the Hon'ble District Court. However, the defendants are intending to alienate the suit property and trying to dig the pits for construction, therefore, it is necessary to maintain status-quo till final disposal of the suit. Hence, she prayed to allow the application.

04] The defendants have filed say overleaf the application and contended that the application of temporary injunction of the plaintiff is already rejected by the Court vide its order dated 09.07.2019 holding that plaintiff has no prima facie case, no balance of convenience and no irreparable loss would cause to

plaintiff. Therefore, there is no question to grant status quo. Hence, they prayed to reject the application.

05] I have gone through the record, it appears that the present suit is filed for perpetual injunction only. The application of temporary injunction is appears to be rejected by this Court vide order dated 09.07.2019. It is submitted by Shri. V.G.Patil, learned advocate for the plaintiff that Miscellaneous Civil Appeal against the order of rejection of temporary injunction is preferred and it is pending before the Hon'ble District Court. It is well settled principle of law that filing of appeal is continuation of earlier proceeding. As the Miscellaneous Civil Appeal is pending before the Hon'ble District Court against the order of rejection of temporary, the present application sub-judice the earlier proceeding. Admittedly, this Court has rejected the application of temporary injunction by holding that the plaintiff has no prima facie case, no balance of convenience lies in her favour and no irreparable loss would cause to her, if relief of temporary injunction is rejected.

06] The present application is filed on 29.01.2020. Order of temporary injunction was passed on 09.07.2019. The contention regarding alienation of suit property and digging pits for construction is between the period of rejection of temporary injunction application and filing of present application. So also, the said contention is not specific and under apprehension only.

Moreover, no prima facie evidence brought on record to show that defendants are intending to alienate the suit property and digging the pits for construction. It is worth to mention here that even after filing of status quo application on 29.01.2020, already the period of 4 years is lapsed, but the plaintiff did not bring on record in evidence to show that the defendants are intending to alienate the suit property or raising construction. Under such circumstances, I do not find substance in application restraining the defendants as prayed by the plaintiff. Therefore, this application has no merit and accordingly, it is liable to be rejected. Hence, I pass the following order.

ORDER

The application (Exhibit No.30) is hereby rejected.

(Order is dictated and pronounced in open Court.)

sd/-xxxxxxxx

Place : Partur
Dated: 23.01.2024

(Liladhar D. Korde)
Civil Judge (Jr. Div.),
Partur

- : C E R T I F I C A T E : -

I affirm that the contents of this Pdf file order are same word as per original order.

Name of Stenographer :- Vaibhavsing N. Thakur
Court Name :- Liladhar D. Korde, C.J.J.D., Partur
Date of decision :- 23.01.2024
Transcript ready on :- 23.01.2024
Order signed by P.O. on :- 23.01.2024
Order uploaded on :- 23.01.2024

sd/-xxxxxxxx
Vaibhavsing N. Thakur
Stenographer (Grade -III)