

Presented on : 24/02/2014

Registered on : 10/03/2014

Decided on : 30/01/2018

Duration : Y. M. D.

03 11 06

**IN THE COURT OF THE 2<sup>nd</sup> JT. CIVIL JUDGE JR. DN.,**

**ICHALKARANJI, AT ICHALKARANJI, DIST. KOLHAPUR**

(Presided over by A.M. Phadatare)

**Regular Civil Suit No.83/2014**  
**(CNR No.MHKO050008122014)**  
**Exh.No.32/A**

Ramjan Abdul Sanadi - Aparadh, }

Age – 55 years, Occu. - Labour, }

R/o.Sanadi Galli, Kabnur, }

Tal.Hatkanangle, Dist.Kolhapur. }

**Plaintiff**

**Versus**

**1.** Dastagir Babaso Sanadi - Aparadh, }

Age – 60 years, Occu. - Business, }

R/o.Ghone Mal,Near Pailwan Chawl }

Ichalkaranji. }

**Defendants**

**2.** Shabbir Makbul Sanadi - Aparadh, }

Age – 40 years, Occu. - Business, }

Near Grampanchayat, Kabnur, }

Tal.Hatkanangle, Dist.Kolhapur, }

3. Allauddin Makbul Sanadi - Aparadh }  
Age – 35 years, Occu. - Business, }  
Near Grampanchayat, Kabnur, } **Defendants**  
Tal.Hatkanangle, Dist.Kolhapur, }

**Suit for Permanent Injunction.**

Advocate for Plaintiff - Shri.D.S. Kamble

Adv. for deft. Nos.1 to 3 - Shri.V.R. Pawar (No.W.S.)

**J U D G M E N T**

(Delivered on 30<sup>th</sup> January, 2018)

1. Present suit is filed for permanent injunction in respect of suit property described in plaint para No.1 against defendants for restraining them from causing obstruction to the peaceful possession of the plaintiff.

2. Adumbrated in brief, the relevant facts of the plaintiff's case giving rise to this suit are as follows -

Suit property is ancestral property of plaintiff and predecessor in succession of plaintiff. More than 60 years plaintiff and his predecessor in succession have possession and enjoying the suit property peacefully. The suit property is a house and due to dilapidated condition plaintiff is willing to construct it. For that purpose he brought construction material in suit property. On

07/02/2014 the defendants came to suit property and threatened to demolish the suit property as well as with dire consequences. Therefore, plaintiff constrained to file present suit.

3. On service of summons defendant Nos.1 to 3 have appeared but failed to file their written statement. Therefore, by passing order dated 10/07/2014 suit proceeded without W.S. against them.

4. On the basis of the pleading following points arise for my determination. I have recorded my answer and findings against each of them as under.

| <b>Sr.No.</b> | <b>Points</b>                                                           | <b>Findings</b>            |
|---------------|-------------------------------------------------------------------------|----------------------------|
| <b>1</b>      | Whether plaintiff is in peaceful possession of the suit property ?      | <b>In the affirmative</b>  |
| <b>2.</b>     | Whether defendants are trying to obstruct the possession of plaintiff ? | <b>In the affirmative.</b> |
| <b>3.</b>     | Whether plaintiff is entitled for permanent injunction as prayed ?      | <b>In the affirmative</b>  |
| <b>4.</b>     | What order and decree ?                                                 | <b>As per final order.</b> |

### **REASONS**

#### **As to Point Nos.1 to 4**

5. In support of his contention plaintiff has examined himself as,

1. P.W.No.1 Ramjan Abdul Sanadi - Aparadh (Exh.No.20)
2. P.W.No.2 Gajanan Virupaksha Swami (Exh.No.21)

Plaintiff relied on the various documents i.e. house tax receipts, assessment extract and photograph. On the other hand defendants failed to cross-examine the plaintiff and his witness as well as failed to adduce oral and documentary evidence.

6. Plaintiff has filed his written argument at Exh.No.31. Defendants and their advocate absent when called at the time of argument.

7. Plaintiff and his witness supports the contention as stated in plaint regarding possession of plaintiff in the suit property. To support his contention plaintiff relied on the public document in the nature of house tax receipts and assessment extract which reflects the name of plaintiff as well as his predecessor in succession in possessory column. In spite of service of summons defendants failed to file their W.S. and contest the suit. Consequently, the oral and documentary evidence of plaintiff remains unshaken and unchallenged. There is nothing on the record on the basis of which the contention and the evidence of plaintiff can be disbelieved.

8. As plaintiff succeeded to show that he is in possession of suit property therefore, I answer point No.1 in the “ **affirmative** ”. Plaintiff knocking the door of Court by way of filing present suit as well as lead evidence shows that he has reasonable apprehension from the defendants therefore, I answer point No.2 in the “ **affirmative** ”. Consequently plaintiff is entitled for equitable relief of permanent injunction to restrain defendants from causing any kind of obstruction

to his peaceful possession in the suit property. Hence, I answer point No.3 in the “ **affirmative** ” and to point No.4, I proceed to pass the following order.

**ORDER**

1. The suit is decreed with costs.
2. Defendant Nos.1 to 3, their agents and servants are hereby permanently restrained from causing obstruction to the peaceful possession of the plaintiff over the suit property.
3. Decree be drawn accordingly.

(Pronounced in open court)

Sd/-

(A.M. Phadatare)

2<sup>nd</sup> Joint Civil Judge Jr. Division,  
Ichalkaranji, Dist.– Kolhapur.

Ichalkaranji.

Date - 30/01/2018

I affirm that the contents of this P.D.F. file Judgment/ order are same, word to word, as per the original Judgment/order.

|                             |                                                                                    |
|-----------------------------|------------------------------------------------------------------------------------|
| Name of the Stenographer    | Shri.S.M. Desai (L.G.)                                                             |
| Name of Court               | 2 <sup>nd</sup> Joint Civil Judge Junior Division,<br>Ichalkaranji, Dist.Kolhapur. |
| Date of Dictation           | 30/01/2018                                                                         |
| Order signed by the P.O. on | 30/01/2018                                                                         |
| Order uploaded on           | 31/01/2018                                                                         |