



Order below Exh. 13 in
Regular Civil Suit No. 228 / 2017
CNR Number is MHKO050022512017
(Passed on 08.11.2023)

Read. Heard. Perused record.

02. In the present case, the plaintiff has come forward with the application for temporary injunction vide Exh. 13. If I perused said Exh. 13, it shows that, the prayer mentioned therein is “to prohibit the defendant Nos. 1 and 2 from creating any road from the suit property till final order of the temporary injunction application (Exh.5).”

03. The defendants have strongly objected this application at the entry level, contending that, Exh. 5 temporary injunction application has been decided by the plaintiff to be tried along with the suit and a remark of that is mentioned by the plaintiff on Exh. 5 accordingly. Therefore, today Exh. 5 application is in dormant condition and no order can be passed today on that. Further prayed that, as far as the present application is concerned, it is only a temporary relief by the plaintiff seeking injunction only till the passing order below Exh. 5. Therefore, since Exh. 5 is not in existence, how the present order can be passed till passing the order of the temporary injunction application (Exh.5). Therefore, there is no regular temporary injunction application under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure. Merely it is a interim application under section 151 of the Code of Civil

Procedure. Therefore, prayed for rejection of the application at the entry level.

04. I have gone through entire facts and circumstances. Perused all merits, 7/12 extracts, maps, plans and all provisions of law etc. Further, perused notice issued by the defendants to the plaintiff and all the required things. But at this moment, since original temporary injunction application (Exh.5) has been kept in abeyance along with the suit, how it is possible to pass any order below exh. 5 since it is not pressed by the plaintiff yet. As far as the application (Exh.13) is concerned, it is merely a temporary interim relief application. Having regard to the entire facts and circumstances as the earlier court has granted ex-parte injunction below Exh. 13 dated 08-08-2017, at the most it can be continued till next date, otherwise no any injunction order can be passed afresh on this application Exh.13. Hence, I pass the following order :-

ORDER

Order below Exh. 13 dated 08-08-2017 is hereby continued and extended against defendant Nos. 1 and 2 only, till next date.

Date: 08.11.2023

(B. T. Yengade)
Jt. Civil Judge, Senior Division,
Ichalkaranji.