

**MHKO070007762021****ORDER BELOW EXH.87 IN R.C.S. No. 129/2021.****(Bebitai Patil and anr. -Vs.- Suvarna Aalmane and oth.)**

Vide orders on Exh. 54, 68, 75 defendants were directed not to alienate and not to create third party interest in the suit property till today. The suit is pending for argument on application for temporary injunction. There are 2 applications under Order VI Rule 17 of Code of Civil Procedure, both moved by plaintiff, and according to plaintiff unless the same are decided, arguments on application for temporary injunction cannot be advanced. Vide this application, plaintiff is again requesting for directions of continuation of earlier orders of *ad-interim* injunction. Say of defendant Nos. 3 to 17 is filed overleaf the application.

2- Heard advocates for both parties. Also gone through record and proceeding.

3- It is contentions of defendants that they have purchased the suit property way back in the year 1985 and since then enjoying it uninterruptedly, therefore if such type of directions are against their valuable rights in the suit property. *Per contra*, it is contentions of plaintiff that since the suit is for partition and separate possession of suit property, alleged alienation of the suit property in favour of defendants as well as valuable rights of both parties are to be determined during extensive trial, and therefore unless and until application for temporary injunction is decided, interim protection is necessary.

4- I have given careful thought to the arguments of

both sides in the light of pleadings, documents and more particularly provision of Section 52 of Transfer of Property Act. Eventhough the protection is given or not, the alienation or transactions in respect of suit property will be governed as well as hit by the provision of Section 52 of Transfer of Property Act. But the important question to be decided is as to whether said protection by way of order of this court is adequate to safeguard interests of parties or not. At this juncture it is not on record as to whether plaintiff has registered the notice of *lis-pendence* under Section 18 of Indian Registration Act. However, inspite there of, considering the interest of parties in suit properties and provisions of Section 52 of Transfer of Property Act, I am of the view that such protection is necessary at least till the determination of application for temporary injunction, more importantly to avoid multiplicity of litigation as well as intricacies in the matter. However the contentions of the defendants needs consideration mainly because they are owners and purchasers of the suit property since 1995. Thus considering same in the light of Section 52 of Transfer of Property Act, I am of the view that they can alienate or create third party interest in the suit property by following two conditions, i.e. to say firstly by intimating concerned third party about the pendency of this litigation in the court, and secondly by obtaining necessary prior permission from the court for that purpose.

5- Thus in the light of abovesaid directions, defendants are restrained from alienating or creating third party interest in the suit property till decision on application for temporary injunction. Both parties are also directed to complete hearing on application for temporary injunction by end of December 2021.

Sd/-

Date : 25.10.2021  
Jaysingpur

( **Anand D. Karbhajan** )  
Jt. Civil Judge (Jr. Division),  
Jaysingpur, Tal. Shirol, Dist. Kolhapur.

दा ख ला

दाखला देण्यात येतो की, सदर पी.डी.एफ. फाईलमधील मजकूर हा मुळ आदेशाप्रमाणेच आहे.

लघुलेखकाचे नाव	:—	सौ. पुनम प्रशांत माने
न्यायालयाचे नाव	:—	दिवाणी व फौजदारी न्यायालय, जयसिंगपूर, ता.शिरोळ, जि.कोल्हापूर.
आदेश जाहीर केल्याची तारीख	:—	२५/१०/२०२१
न्यायाधिकांनी स्वाक्षरी केल्याची तारीख	:—	२६/१०/२०२१
आदेश अपलोड केल्याची तारीख	:—	२६/१०/२०२१