

REGULAR CIVIL SUIT NO.221/2021
ORDER BELOW EXH. 5

(Shri. Laxman Babu Patil Vs. Shri. Dadaso Laxman Patil
and Ors.12)

Vide this application, plaintiff is requesting for ad-interim injunction restraining defendants from (1). ousting him from joint possession of the suit property, (2). changing the nature of the suit property, (3). carrying out any construction over the suit property, (4). alienating the suit property and (5). creating third party interest in the suit property.

02. The suit is filed recently for partition and separate possession and today is the first date. Learned advocate Shri. R. A. Magdum for plaintiff urged for the reliefs contending that if such reliefs are not granted, the same will cause irreparable loss to the plaintiff and also there will be multiplicity of litigations.

03. I have carefully gone through the material on record. The suit is for partition and separate possession, and as per the family tree mentioned in the plaint as well as this application, plaintiff appears to be in relationship with all defendants. Whether or not the suit properties are ancestral properties of the parties, is a question to be determined after considering pleadings of both the sides. However, *prima facie*, considering the relationship of plaintiff and defendants and since plaintiff is appearing in the shoe of his mother and claiming partition through said right, I am of the view that unless and until defendants caused appearance and submit their

version, alleged interests of plaintiff in the suit property can be safeguarded by invoking discretion in his favour. Yet, it cannot be straight way said, as of now, that plaintiff is also in joint possession of the suit property with the defendants. Therefore, in the interest of justice I am of the view that following order will be just and proper.

ORDER

1. Issue ad-interim ex-parte injunction against defendants restraining them from (1). Changing the nature of the suit property, (2). Carrying out any construction over the suit property, (3). Alienating the suit property and (4). creating third party interest in the suit property, till further orders of this Court.
2. Issue notice to all defendants as to why the said relief shall not be confirmed against them.
3. Plaintiff to comply Order XXXIX, Rule 3 of the Code of Civil Procedure.
4. Notice made returnable on 25/11/2021.
5. E.P. and S.B. allowed, if prayed.

Date.- 12/11/2021
Jaysingpur.

sd/-
(A.D.Karbhajan)
Jt. Civil Judge Junior Division,
Jaysingpur, Tal. Shirol,
Dist. Kolhapur.

-: Certificate :-

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

Name of Stenographer	Miss. P. P. Lagare
Name of Court	Jt. Civil Judge Junior Division, Jaysingpur, Tal. Shirol, Dist. Kolhapur.
Date of Decision	12/11/2021
Order signed by the P.O. on	12/11/2021
Order uploaded on	12/11/2021