

ORDER PASSED BELOW EXHIBIT NO.20
IN R.C.S. NO.5/2019
(CNR No.: MHKO110000362019)

01. By this application, the plaintiffs have prayed for grant of “status-quo” order as regards possession over the suit property.

02. The plaintiffs have contended that, they have instituted the present suit for perpetual injunction and for declaration of the sale deed bearing No.7790/2018 dated 11.12.2018. In spite of service of suit summons, the defendants appeared but not filed their say to instant application nor to the application at Exh.5. It is contended that, the defendant No.1 about to making construction and about to take forceful possession of the suit property under the illegal and void sale deed dated 11.12.2018. If such forceful possession of the suit property will take, it will cause irreparable loss to the plaintiff. It is also contended that father of the plaintiff and defendant Nos. 2,3 died on 07.04.1998. The suit properties are self acquired properties of deceased Balwant Hande. The predecessor Balwant Hande bequeathed the suit property to the father of the plaintiff under registered will-deed dated 02.10.1975. It is also contended that after death of father of the plaintiff defendant Nos. 2 and 3 are not entitled to equal share to that of the plaintiff. However, defendant Nos. 2 and 3 have unlawfully alienate the suit property to the defendant NO. 1 under sham and bogus sale deed. It is also contended that the defendant Nos. 2 and 3 have not right to transfer the suit property. However, they have sold out unlawfully suit property to the defendant No.1. Therefore, they have constrained to file present suit for declaration and perpetual injunction. Therefore,

the plaintiffs have prayed for issuance of “status-quo” order against the defendant No.1 as regards to the possession over the suit property. The instant application is supported by an affidavit.

03. The instant application is proceeded without say of the defendant No.1 vide order dated 05.02.2019.

04. I have heard the learned advocate for the plaintiff at length.

05. Before advertng to the merits of the instant application, it is required to mention here that the relief of “status-quo” is as good as an injunction. Therefore, before granting such relief, the Court has to considered the relevant principles of *prima facie* case, balance of convenience and irreparable injury. Considering this aspect, if the instant application is considered, it is seen that the plaintiffs have filed the present suit for perpetual injunction and for declaration. The plaintiffs have pleaded that they have undivided and more share in the suit property that of defendant Nos. 2 and 3 as their father if died on 07.04.1998 that too before 2005 in Hindu Succession Act. However, the defendant Nos. 2,3 have sale out illegally more share that of them in the suit property to the defendant No.1. So also defendant No. 1 starting obstruction to the possession of the plaintiff over the suit property. The death of the father of plaintiff is on 07.04.1998 was not disputed fact. So also revenue record does not confirm title to any party. The property card extract at Exh.3/1 and assessment extract at Exh.3/2 does not reveals the $\frac{1}{2}$ share of the defendant Nos. 2 and 3. Therefore, *prima facie* sale deed at Exh.3/9

reveals excess share to the defendant Nos. 2 and 3. Therefore the defendant No.1 does not confirm title to the tune of ½ share in the suit property. In such circumstances, if the defendant No.1 succeeds in making obstruction and possession over the suit property, the purpose of filing of the instant suit will be frustrated and necessarily the plaintiffs would suffer irreparable loss. Thus, from this point of view, I find that there is *prima facie* case in favour of the plaintiffs for issuance of “status-quo” order as prayed for. Undoubtedly, the balance of convenience also lies in favour of the plaintiffs. In this view of matter, the instant application is deserves to be allowed. Hence, I proceed to pass the following order.

-: ORDER :-

- 1) Application Exhibit 20 is allowed.
- 2) The defendant No.1 is hereby directed to maintain the “status-quo” in respect of suit property till next date.

Sd/-

(S.M.Jadhav)

Jt. Civil Judge, Junior Division,
Peth-Vadgaon.

Date 05.02.2019.

CERTIFICATE.

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

Name of the Stenographer	:-	Sou. Rajashari Rajendra Sawant(L.G.)
Name of Court	:-	Shri.S.M.Jadhav Jt.Civil Judge, Jr.Dn., and J.M.F.C. Peth-Vadgaon.
Date of Dictation	:-	05.02.2019.
Judgment signed by the P.O. on	:-	05.02.2019.
Judgment uploaded on	:-	07.02.2019.