

:: 1 ::

Regular Civil Suit No. 90/2010.
CNR No.MHKO12-000336-2010
Order Below Exh.67.

// ORDER BELOW EXH.67 //

Perused the application. Defendants failed to submit their say, hence, the application proceeded without the say of the defendants. Through this application, plaintiffs have requested for granting temporary injunction restraining the defendants from causing disturbances to their possession over the land Gat No.102, area admeasuring 29.3 R. situated at village Sheloli Paiki Nhavyachiwadi, Tal. Bhudargad, Dist. Kolhapur, till the conclusion of the suit. (Hereinafter referred to as "the suit properties" for the sake of convenience).

2) Points for determination and findings thereon alongwith the reasons stated thereto are as under.

POINTS

FINDINGS

- | | |
|---|-------------------------------|
| 1] Whether the plaintiffs have made out prima facie case ? | : In the Affirmative. |
| 2] Whether there is balance of convenience in favor of the plaintiffs ? | : the Affirmative. |
| 3] Whether irreparable loss will be caused to the plaintiffs, if the application is not allowed ? | : In the Affirmative. |
| 4] What order ? | : The application is allowed. |

REASONS

As to point nos.1 to 3 :-

3) It is the contentions of the plaintiffs that initially the suit property was known as land Gat No.460. One Krushna Rama More, predecessor-in-title of defendants was its owner. He agreed to sell the suit property to Shankar Babu Rane, who was the predecessor-in-title of the plaintiffs. The suit property was agreed to be sold for the consideration of Rs.4500/- by way of agreement dated 07/05/1972. Immediately after the agreement to sale, Shankar Babu Rane was put into the possession of the suit property. Since then, Shankar Babu Rane and thereafter, the plaintiffs are enjoying the possession of the suit property. The sale deed was agreed to be executed after obtaining necessary permissions. The defendants failed to obtain necessary permission and also failed to execute the sale deed. Hence, the plaintiffs have filed present suit for the relief of specific performance of agreement dated 07/05/1972. Presently the suit is pending at the stage of hearing.

4) The unregistered agreement dated 07/05/1972 shows that one Krushna Rama More agreed to sell the suit property to Shankar Babu Rane for the consideration of Rs.4500/-. Immediately, after the execution of agreement of sale, Shankar Babu Rane was put into the possession of the said land. On perusal of the 7/12 extracts of the suit property, it appears that the name of plaintiffs are recorded in its possession column as

possessor of the suit property. The defendants have not challenged the said contentions of the plaintiff. They have also not placed on record any evidence to rebut the contentions of the plaintiffs. As per the contentions of the plaintiffs, defendant nos.2 to 9 executed the sale deed of the suit property in favour of defendant no.1 by way of sale deed dated 27/02/2018. This fact also shows that the defendants are trying to create third party interest in the suit property. The defendants have also not challenged the contentions of the plaintiffs that they are trying to disturb the possession of the plaintiffs over the suit property. In all these circumstances, it appears to me that the plaintiffs are in the possession of the suit property. Till the trial is over, the suit properties will have to be preserved as it is. In the circumstances, in my view, there is prima-facie case in favour of the plaintiffs. There is balance of convenience in favour of the plaintiffs and irreparable loss will be caused to the plaintiffs, if the application is not allowed. Hence, I answer point nos.1 to 3 in the affirmative.

As to point no.4.

5) In view of affirmative finding to point nos.1 to 3, it is clear that there is prima facie case in favor of the plaintiffs, there is balance of convenience in their favor and irreparable loss will be caused to them, if the application is not allowed. Hence, the application will have to be allowed and defendant nos.1 to 9 will have to be restrained from causing disturbances to the possession

:: 4 ::

Regular Civil Suit No. 90/2010.
CNR No.MHKO12-000336-2010
Order Below Exh.67.

of the plaintiffs over the suit property till the conclusion of the suit. They are also restrained, till the conclusion of the suit, from creating third party interest in the suit property. In all these circumstances, I answer point no.4 accordingly and pass following order.

ORDER

- 1) The application is allowed.
- 2) Defendant nos.1 to 9 are restrained from causing disturbances to the possession of the plaintiffs over the land Gat No.102, area admeasuring 29.3 R. situated at village Sheloli Paiki Nhavyachiwadi, Tal. Bhudargad, Dist. Kolhapur, till the conclusion of the suit.
- 3) Defendant nos.1 to 9 are also restrained from creating third party interest in land Gat No.102, area admeasuring 29.3 R. situated at village Sheloli Paiki Nhavyachiwadi, Tal. Bhudargad, Dist. Kolhapur, till the conclusion of the suit.

Sd/-

(S. S. Parave)

Civil Judge Junior Division,
Gargoti.

Place : Gargoti.
Date : 26/04/2018.

:: 5 ::

Regular Civil Suit No. 90/2010.
CNR No.MHKO12-000336-2010
Order Below Exh.67.

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

Name of the Stenographer	:	Mr. S. D. Sarang
Name of Court	:	Court of Civil Judge Junior Division, Gargoti, Tah. - Bhudargad, District - Kolhapur
Date of Dictation	:	26/04/2018
Order signed by the P.O. on	:	26/04/2018
Order uploaded on	:	26/04/2018