

**R.C.S.No. 52/2023**

Ananda Shankar Patil Vs. Hindurao Maruti Mhatugade

CNR - MHKO130002782023

ORDER PASSED BELOW EXH.13**(Dt. 06/05/2023)**

1. This application is filed under section 94 of C.P.C. by plaintiff restraining the defendant from commencing construction upon suit property no. 1(A).
2. According to plaintiff, the defendant no. 1 taking disadvantage of summer vacation and to make the application Exh. 5 infructuous brought the building material upon suit property. Hence, by way of this application the defendant no. 1 is required to be restrain from carrying construction upon suit property no. 1(A).
3. Contrary, learned advocate of defendant by filing his say below Exh. 17 submitted that, the basic suit is instituted for injunction. There is no relief claim in the suit or Exh. 5 in respect to construction. Hence, urged and argued to reject the application.
4. Perused the record. Heard learned advocate of parties.
5. The suit is for simplicitor injunction and declaration. There is no relief claim in respect to restraining the defendant from commencing the construction. Thus, considering absence of basic relief it would not proper to grant this application without suitable amendment in the plaint and Exh. 5. Accordingly, this court is not inclined to grant this application. Hence, application is rejected.

Kagal.
Date: 06/05/2023.

(B. D. Gore)
Civil Judge Jr. Dn., Kagal.