



ORDER BELOW EXH. 61 IN R.C.S.No. 117/2022

1. This is the application of the plaintiff filed under order 26 rule 09 of the Code of Civil Procedure, 1908 (*In short 'C.P.C.'*), with request to appoint “Annapurna Sugar & Jaggery Works Ltd. Kenavade” as a Court Commissioner for cutting the sugarcane that is cultivated in Gat No. 374 and direct them to deposit amount of same sugarcane in the Court. It is pleaded by the plaintiff that, the sugarcane that is cultivated by the plaintiff in Gat No. 374 is grown now. When the persons from “Annapurna Sugar & Jaggery Works Ltd. Kenavade” has started cutting of the sugarcane belonging to the share of the plaintiff, at that time defendants No. 1 & 5 have restricted & obstructed the labours who were on field for cutting the sugarcane. Resultantly, the captioned factory has not taken crop of sugarcane with them. The police has refused to take any report from the plaintiff as several litigations are going on in the Court in between the parties. Thus, as defendants No. 1 & 5 are obstructing to the plaintiff, in that respect, the current application is filed to appoint the above said factory as the Court Commissioner.

2. The application is highly objected by the defendant No. 1 by his say at Exh. No. 66. He has denied possession of the plaintiff over the suit property in Gat No. 374. He has specifically submitted that, the suit property admeasuring 0.50.68R is in his possession. This defendant has taken crop of sugarcane in the said land. The said crop of sugarcane is registered with Sadashiv

Mandlik Sugarcane Factory. The plaintiff has never cultivated and has taken any crop in the suit property. The plaintiff has filed this suit for partition. She was never in possession of the suit property. The plaintiff is unnecessarily harassing to defendant No. 1. This defendant has no independent source of income. Thus, in the backdrop of these factual aspects, he has submitted to reject the application.

3. Heard Advocate Shri. A.J. Desai for the plaintiff and Advocate Shri. A.P. Patil for defendant No. 1.

4. In the current suit, before deciding this application, interim application below Exh. No. 5 is decided & is rejected by this Court on merit. Wherein this Court has come to the conclusion that, the plaintiff has failed to prove her prima-facie possession over the suit property. She has also failed to prove that crop of sugarcane is cultivated by her in said property. In the backdrop of these observations, the pleading in the current application that, the plaintiff is cultivating the crop of sugarcane in the suit property is not acceptable. Resultantly, this application is not maintainable. Hence, following order is passed:-

ORDER

1. The application at (Exh. 61) is rejected.
2. In the peculiar facts & circumstances, there is no order as to costs.

Kagal.
Date: 21/02/2023.

(A. B. Jawale)
Jt. Civil Judge Jr. Division
Kagal.