

Order passed below Ex.117 in Regular Civil Suit No. 3/2008.

cnr no. mhko14-000029-2008

Heard. Perused the application and say.

2) Learned advocate for the plaintiffs submitted that plaintiff has instituted the suit for the relief of partition and separate possession. The defendant No. 2 intending to alienate the suit property. Hence, if the defendant No. 2 alienate the suit property, then plaintiff will be deprived her share in the suit property Gat No. 757. Hence the application.

3) On the contrary, the learned advocate for the defendant Shri. V.B. Kadukar submitted that he is not alienating the suit property. On the contrary the plaintiff is alienating the suit property. Hence, the application is liable to be rejected.

4) After taking into consideration the arguments advanced by both the parties and documents on record, the following points arose for my determination. I gave my findings thereon with reasons as under :

<u>Points.</u>	<u>Findings.</u>
1) Does plaintiff have made out prima-facie case ?	..Yes.
2) Whether balance of convenience lies in favour of plaintiff ?	..Yes.
3) Whether if application is rejected plaintiff will suffer irreparable loss ?.	..Yes.
4) What order ?	As per final order.

REASONS

As to point No. 1 to 3 :

5) The plaintiff has instituted the suit for partition and separate possession of the property jointly owned and possessed by the plaintiff. According to plaintiff the suit property Gat No. 757 is jointly

owned and possessed by defendant. On perusal of 7/12 extract of Gat No. 757 vide Ex. 16 revealed that suit property is jointly owned and possessed by the plaintiff and defendant.

6) Therefore, as the plaintiff has instituted the suit for partition and separate possession, hence the apprehension of plaintiff will alienate the suit property is over looked. Hence, to avoid multiplicity of proceeding and protect undivided share of plaintiff over suit property, I hold that plaintiff has prima facie case and balance of convenience lies in favour of plaintiff. And if application is rejected the plaintiff will suffer an irreparable loss. Hence, I answer point No.1 to 3 in the affirmative.

As to point No. 4:

7) Hence, in view of my answers as to points No.1 to 3, I hold that the application deserves to be allowed. Hence, in answer to point No.4, I proceed to pass the following order.

O r d e r

1. The application is allowed.
2. The defendant No.2 or any person on their behalf, are hereby restrained from alienating the suit property Gat No. 757 till final disposal of the suit.
3. Costs in main cause.

Dated:- 08/02/2018.

(M. D. Thombare)
Civil Judge, Jr. Dn., Chandgad.