

MHKO170002682025



R.C.S./34/2025

Baburao Daji Nikam etc 1

Vs.

Abhishekh Manik Shingate etc 1

Order below Exh.5

1. The plaintiffs have instituted the suit for rectification of sale deed , permanent injunction and mandatory injunction.
2. Heard Adv. K.K.Saswade for plaintiffs.
3. The Ld. Adv. K.K.Saswade submitted that the plaintiffs have purchased the property in village Kekhale, Tal. Panhala, bearing gut no. 829, hissa no. 9 area 0.23 H.R from the grandfather of defendants in 1998 by sale deed dated 11.03.1998. However, at the time of sale deed the hissa no. 9 was wrongly mentioned in the sale deed as hissa no. 5. It was the mutual mistake between both the parties. Thereafter, the possession was handover to the plaintiffs from that date. The plaintiffs are lawfully possessing the suit property. The plaintiffs did not have any intention to purchase hissa no. 5. The gut no. 829 hissa no. 5 is possessing by Karvekar family and they are cultivating crops on that land. The plaintiffs are also cultivating the crop of rice and sugar cane for every year. The plaintiffs supply sugar cane to the Tatyasaheb Kore Warana Sahakari Karkhana Ltd. Warananager. Since 1998 the Shamrao or defendants did not interfere with the peaceful possession of plaintiffs. However, after the demise of Shamrao and his son Manik the defendants started obstructing the peaceful possession of plaintiffs. The defendants have applied for measurement of land in order to fix

the boundaries of hissa no. 9. The plaintiffs have received the notice of said measurement work. It was fixed on 6.2.2025. On that date the plaintiffs took objection on the ground that, the sugar cane crop was cultivated and plaintiffs are possessing the suit property. As per the information of plaintiffs such measurement work was cancelled. Thereafter, the plaintiffs contacted the defendants for the rectification of the sale deed. Initially defendants agreed for rectification of instrument. Subsequently, they denied it and started obstruction to the peaceful possession of plaintiffs. On 15.02.2025 the defendants have destroyed the cultivation of sugar cane crop of plaintiffs. The plaintiffs lodged report at Kodoli Police Station. Thereafter, the defendants intimidated the plaintiffs. Hence, they instituted this suit. At last the Ld. Advocate on behalf of plaintiffs prayed that ad-interim injunction be granted.

4. Perused the record. It prima facie appears that, the sale deed between plaintiffs and grandfather of defendants was executed. It prima facie appears that, the area of sale deed is as the same area mentioned in the 7/12 extract of gut no. 829 hissa no. 5. Prima facie the name of plaintiffs are mentioned before gut no. 829 hissa no. 5. It appears from the record that, plaintiffs have cultivated the crop in their land. Prima facie it appears from the sale deed that possession was hand over to the plaintiffs from the date of sale deed. It further appears that the Kodoli Police Station issued notice u/s. 168 of BNSS to the plaintiffs regarding gut no. 829 hissa no. 9. Considering all these aspects I am of the opinion that the plaintiffs have every right to protect their property. Prima facie case is made out. Therefore, I am of the opinion that, the object the granting the injunction would be

defeated by delay. Hence I proceed to pass following order.

Order

1. Issue ad-interim ex-parte injunction to restrain the defendants from obstructing possession and enjoyment of plaintiffs over the suit property till 4/03/2025.
2. Issue notice to the defendants to show cause as to why the aforesaid order of injunction should not be confirmed returnable on 4/03/2025.
3. Plaintiffs are directed to comply with the provisions of order 39 rule 3(a) and 3(b) of CPC 1908.
4. Emergent process and special bailiff is allowed.

Place - Panhala
Date- 25/02/2025

Sd/-
K.D.Kakatkar,
Jt. Civil Judge, Junior Division,
Panhala.