

Order below application (Exh.5) in MCA No.5/2024
(Pradeep Vs. Shridhar)
(CNR No.MHLA070001592024)

1) Perused the application. Heard the learned counsel for appellant/plaintiff. He has invited attention of this court towards the voluminous documentary evidence placed on record particularly pleading of present respondent/defendant in application(Exh.5) in RCS No.147/2022 between the same parties. He has also invited attention of this court towards the search report dated 28.12.2023 issued by concerned advocate. He has specifically drawn attention of this court towards para No.10 of the impugned order under appeal and contended that the learned trial judge has mislead itself in appreciating the pleadings of defendants in the present suit and in earlier suit No.147/2022 as well as observing perfect title of the plaintiff over the suit property.

2) The learned counsel for appellant has also invited attention of this court towards the written argument filed by the appellant before the learned trial judge and contended that it has ignored the entire argument of appellant while deciding the application and, therefore, according to him despite of existence of prima facie case in plaintiff's favour the learned trial judge has reached to the erroneous conclusion and so according to him, if the temporary injunction is not granted against the defendant/respondent then he will suffer irreparable loss. So he prayed to allow the application.

3) After giving thoughtful considerations to his submissions and on minute pleading of the defendants in the above mentioned suit, coupled with the revenue record, mutation entries, sale-deeds, the boundaries mentioned therein, the search report issued by the advocate, the court proceeds to pass following order.

Order

- 1) The defendant, respondent, his servant, agent, representative or any other person acting on his behalf is hereby temporarily restrained from interfering or obstructing in plaintiff's possession over the suit property till appearance of the defendant in appeal.
- 2) Issue show-cause notice to the defendant/respondent as to why the temporary injunction as prayed be not confirmed.
- 3) The plaintiff/appellant to comply the provisions of Order 30 Rule 3 of the C.P.C.
- 4) The service of special bailiff is allowed, if prayed.
- 5) Notice be made returnable on 27.03.2024

Date : 16.03.2024

(P. D.Subhedar)
I/C District Judge-1, Udgir.