



ORDER BELOW EXH.05 :

1. This is a suit for perpetual injunction.
2. Plaintiff has filed this application seeking temporary injunction against the defendant nos. 1 to 3 not to obstruct his possession and ownership through themselves or others during the pendency of the suit.
3. Defendant no. 1 & 2 are served with suit summons but failed to appear. Hence, suit is ex-parte against defendant no. 1 and 2 as per order below Exh.01 dt.18/10/2019. Defendant no. 3 is served with suit summons and notice of this application on 15/10/2019 but failed to file any reply till date, despite appearing through advocate on 18/10/2019 vide Exh.12 and 13.
4. Today plaintiff has pressed the application Exh.05. Therefore, heard advocate of plaintiff at length.
5. It is submitted by the plaintiff that, he is owner and in possession of suit property Block No.43 admeasuring 03 H. 4 R. land at village Sonwala, Tq. Jalkot. Defendants are not concerned with the suit property. Plaintiff resides at Udgir due to his service and he is cultivating the suit land through

servants. Defendants are taking disadvantage of this fact and trying to remove the Bandh between their property. Defendants are attempting to destroy the stones of boundary mark, trees, bushes. Plaintiff requested the defendants not to do such act but in vain. Hence, this application.

6. Following points arise for determination, I have recorded my findings thereon for the reasons there below.

	POINTS		FINDINGS
1)	Whether plaintiff has prima-facie case ?	..	Yes.
2)	Whether balance of convenience is in favour of the plaintiff ?	..	Yes.
3)	Whether plaintiff is likely to suffer the irreparable loss?	..	Yes.
4)	Whether plaintiff is entitled for relief of temporary injunction as prayed?	..	Yes.
5)	What order ?	As per final order.	

REASONS

As to Point Nos. 1 to 4:

7. In support of averments of plaintiff that, he is owner and in possession of the suit land plaintiff has filed on record certified copies of 7/12 extract below list Exh.4 at Sr. Nos. 1 to 3 from the year 1994 to 2012 and 2015 to 2018. Plaintiff has filed the certified copy of the mutation Entry No.

1451 at Exh.4/4. Mutation entry no. 1451 shows that, plaintiff has received the suit property from Shri. Vasant Govind Musale in exchange and accordingly on the basis of exchange-deed this entry is effected on 20/09/2010. Revenue record filed below Exh.4/1 to 4/4 prima-facie shows that, plaintiff is the owner and in possession of the suit property. On the contrary, there is no evidence and even say filed by the defendants contradicting the same.

8. Secondly, even after service summons and notice of this application, defendant nos. 1 and 2 failed to appear before the Court and defendant no. 3 failed to file his say till date even after his appearance. There is no justification on record as to why defendant no.3 has failed to file the say till date. If at all further time is granted it is likely to cause prejudice to the plaintiff as there is threat in the mind of the plaintiff as to the obstruction, encroachment and removal of boundary mark, trees and bushes might become true and it will also result into an irreparable loss to the plaintiff. Therefore, as there is every knowledge to the defendants in respect of the suit and the interim application filed by the plaintiff and despite that, they have failed to resist the same in time. This fact itself is sufficient to consider the application and the allegations therein on behalf of the plaintiff. It will not cause any prejudice to the defendants. Resultantly, I answer point nos. 1 to 4 in favour of the plaintiff/applicant

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and proceed to pass the following order:

ORDER

1. Application Exh. 05 is allowed.
2. Defendant nos.1 to 3 are restrained by way of temporary injunction till disposal of the suit from obstructing the plaintiff's possession over the suit property, from causing any encroachment etc., through themselves, agents or servants as prayed.
3. Cost of this application will follow the final decision in the suit.

(Dictated and pronounced in open Court)

(B. V. Diwakar)

Joint Civil Judge Jr.Dn. Udgir.

Date : 14/11/2019

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