

CNR.NO.MHLA090028042020



ORDER BELOW EXH.5

1. This is a suit for declaration of ownership and permanent injunction. The plaintiff has filed application Exhibit 5 seeking relief of temporary injunction against defendant nos.1 and 2 i.e. for restraining them not to interfere and obstruction in the peaceful possession of the plaintiff on the suit property during the pendency of the suit.

2. Defendant nos.1, 6, 7 and 8 are served with the notice but they have not appeared till date before the Court. Therefore, the ex-party order is passed at Exh.1 on 05/01/2021. Defendant no.2 has appeared through his advocate on 05/12/2020 but failed to file his say / w.s. till date. Today, plaintiff has pressed application Exh.5.

3. It is the case of plaintiff that, he is owner and possessor of the middle portion out of block no.269 to the extent of 1 H. 17 R. plus purchased land admeasuring 20 R. Thus, now plaintiff is owner and possessor of total 1 H. 27 R. land out of block no.269 situated within the local limits of village Satala, Tq. Udgir, Dist. Latur.

4. Defendant nos. 1 and 2 are adjacent owners in block no.269 only. However, land of defendant no.2 out of block no.269 is situated on an towards East side of the plaintiff. Land of defendant no.1 out of block no.269 is situated towards the West, North and South side. Thus, land of defendant nos.1 and 2 is covering all four sides of the plaintiff. Name of the plaintiff has entered into revenue record of the suit property vide mutation entry no.1494.

5. Defendant nos.1 and 2 are causing trouble in peaceful cultivation of the suit land and also obstructive the plaintiff. The plaintiff has requested the defendants on 30/10/2020 not to obstruct his peaceful possession and cultivation but in vain.

6. After filing of the suit for the first time plaintiff pressed his application Exh.5 on 21/11/2020. Accordingly, after hearing the plaintiff notice came to be issued to the defendant nos.1 and 2. Now, notices of application Exh.5 are also served on the defendants but inspite of service they have not filed any say on application Exh.5 till date. Thus, defendants have got knowledge of suit and temporary injunction application by

plaintiff. Even thereafter, defendants have failed raised any objection till date. In such circumstances, if any order is not passed on application Exh.5 the very purpose of interim application will get frustrated. Considering this, revenue record i.e. certified copy of 7/12 extract of Survey no.269 at Exh.4/1, certified copy of Mutation Entry no.79 of village Satala Bu. at Exh.4/2, certified copy of Mutation Entry no.98 of village Satala Bu. at Exh.4/3 and photo copy of sale deed day book no.3983/2020 I am of the view that, at least till filing of say by the defendants and thereafter, further order on merit relief as prayed deserves to be granted in favour of plaintiff. Accordingly, I pass the following order.

ORDER

Defendant nos.1 and 2 are hereby restrained from obstructing the plaintiff's peaceful possession over the suit property mentioned in para 3 of the application in any manner till further order.

(Dictated and pronounced in open Court)

Date : 05/01/2021

(B. V. Diwakar)
Jt. Civil Judge (J.D.), Udgir.