

ORDER BELOW EXH.101

1. This is an application filed by the plaintiff and thereby sought for directions to defendants No.5 to 11 to maintain "Status quo" in respect of the properties standing in their name.

2. By way of this application the case put forth by the plaintiff in brief is that he has instituted the present suit and thereby sought for partition and separate possession of Hindu joint family properties. In the instant suit initially the Court was pleased to pass ad interim ex parte injunction in his favour. On 22.07.2023, the Court was pleased to vacate the said order. According to him, he had even argued on application for temporary injunction on the same day and thereafter the present matter came to be withdrawn and transferred on the file of this Court. Thereafter, the defendants did not appear before this Court and instead thereof they are trying to alienate the properties which stands in their names. It is the specific case of the plaintiff that, defendant Nos.5 to 11 are about to execute sale deed in favour of defendant Nos.22 and 23, who had already purchased portion of suit property from these defendants itself. Thus, there is strong apprehension that as like earlier the instant defendants might get execute register sale deed in favour of defendant Nos.22 and 23. Penultimately it is stated that, if the defendants are not enjoined from the said act of alienation it would cause such a loss which cannot be compensated in terms of money and the person who will suffer such loss would nothing but the plaintiff himself. Ultimately, it is stated that, the delay would defeat the justice and therefore, these defendants be restrained from alienation of the properties standing in the instant application for the relief sought for.

3. I have heard arguments of learned Advocate Shri. U.C.Mahajan for the plaintiff for some time. Perusal of the record reveals that the plaintiff has brought this suit seeking partition and separate possession of Hindu joint family properties, of which some properties stands in the names of defendants. Further perusal of the record reveals that, before this suit a suit was instituted

by defendant and more particularly the father of defendant Nos.6 to 11. In the said suit, ad interim injunction was also granted. However, during pendency of the said suit the plaintiff therein had alienated some of the suit properties. According to the learned Advocate for the plaintiff, in the said suit both parties had arrived for amicable settlement the said suit came to be disposed of as compromised. The said compromise came to be impugned before the Hon'ble High Court by the defendant therein and succeeded to get set aside the said compromise. After the said success, the said earlier suit came to be restored and during the pendency of the said suit the father of defendant Nos.6 to 11 had alienated some of the suit properties to defendant Nos.12 to 23.

4. With these factual matrix, since the plaintiff has come forward with dire urgency and none appeared for the defendants. Considering the urgency and previous developments in respect of the suit properties, I have taken up this application for decision. I have considered the instant application in juxtaposition with the antecedents touching to the instant matter vis-a-vis the conduct of the earlier defendants, I hold that if the defendants are not restrained from alienating the properties standing in their name the whole purpose of institution of the instant suit would be seriously affected. Even awaiting for reply on this application would also defeat the sacrosanct purpose of filing the instant application. At the same time, the Court cannot lose sight that, no person would be suffered for no fault. However, considering the nature of the suit properties prima facie it appears that, the plaintiff is equally interested in the suit property. Thus, I hold that, issuing directions to defendant Nos.6 to 11 will not cause any hardship to them, just because no property will be alienated, protecting their rights as well. At the same time, considering the arguments advanced by the learned Advocate for the plaintiffs that not only defendant Nos.6 to 11 but also property stands in the name of all rest of the defendants as well. On this point perusal of the record I find substance in the arguments advanced by the learned Advocate Shri. Mahajan. Thus, this order needs to be directed against all the defendants. Hence, all the defendants are hereby directed not to alienate the suit properties standing in their respective names until next date. Here it is equally important to direct

that since some of the suit properties are standing in the name of plaintiff as well, hence, he also hereby directed not to alienate the property standing in his name until next date. Hence, following order :

ORDER

- 1) Both the parties are hereby directed to maintain “status quo” in respect of the suit properties standing in their respective names until next date. More particularly they are enjoined from alienating the properties standing in their respective names.
- 2) The plaintiff is hereby directed to comply with the provisions of Order XXXIX Rule 3(a) of the Code of Civil Procedure, 1908 scrupulously.
- 3) Parties to take note.

Place : Udgir.
Dated : 18.01.2025

(Bhalchandra R. Zende)
4th Jt. Civil Judge (J.D.),
Udgir.