

ORDER BELOW EXH 23 IN REG. CIVIL SUIT NO.68 of 2020

1. Plaintiff has filed suit for declaration and injunction. Defendants filed their written statement and counter claim vide Exh.21. By this application, defendants prays for temporary injunction restraining original plaintiff from disturbing their possession over suit property.

2. It is contention of Defendants that they have purchased the 81 R land out of Survey No.21/1 on 18/10/1995 from Vaijanath Prabhu Munde vide Sale deed No.2845/1995. Thereafter, the Survey No.21/1 converted into Gat No.143. Since then, the said land is in possession of defendants. But the plaintiff by meeting hands with revenue authority not allowed taking mutation entries of the said land. Further, by taking the disadvantage of mutation entries on name of plaintiff, she is denying title of defendants over suit property and obstructing their possession over suit property. So, the defendant filed counter claim and prayed for relief of injunction against plaintiff. Further by this application defendants prayed to grant interim injunction in favour of them and restrain plaintiff from obstructing their possession till the final decision of the suit.

3. On the other hand, original plaintiff/defendant filed her written statement vide Exh.29 and denied the case of defendants. Plaintiff has stated in her plaint that she is owner and possessor of the 3 acer land bearing Gat No.143 in the vicinity of village Koshtagaon, Tal-Renapur, Dist-Latur. Previously the said land was bearing Survey No.21/A and thereafter it converted into Gat no.143. The said land came to her vide Gift deed dated 17/04/1978. It is mutated on her name vide Mutation

entry no.581. The defendants are adjacent land holder to the suit property towards southern side bearing Gat No.142. It is also contention of plaintiff that, she and father of defendant no.1 jointly purchased 4 acre 1 R land out of Survey No.21/A on 12/06/1981. Accordingly, its Mutation entry No.695 also sanctioned. So the land by gift deed admeasuring 3 acre and by sale deed admeasuring 2 acre, plaintiff is having 5 acre land in Gat No.143. There is not any land of defendant in Gat No.143. So, defendants have not any prima facia case or balance of convenience. Hence, Plaintiff prayed to reject the application.

4. I perused the application, say, plaint, Counter claim and written statements of both the parties. I also gone through the documents on record and heard learned Advocates for both side. Following points arise for my determination and my findings thereon are as under.

Points For Determination

<u>Sr. No.</u>	<u>Points</u>	<u>Findings</u>
1.	Does plaintiff/original defendants prove that they have prima-facia case ?	No.
2.	Does plaintiff/original defendants prove that the balance of convenience is in their favor ?	No.
3.	Does plaintiff/original defendants prove that they would suffer irreparable loss in case injunction is refused ?	No.
4.	What order?	As per final order .

R E A S O N S

As to Point no.1 to 4

5. To support the case, learned advocate for defendants argued that the defendants have purchased 81 R land out of Survey No.21/1 on 18/10/1995 from Vajjanath Prabhu Munde vide Sale deed No.2845/1995. The said sale deed has produced on record. Afterward, the Survey No.21/1 converted into Gat No.143. Since then, the said land is in possession of defendants. But plaintiff meeting hands with revenue authorities does not allow taking mutation entries as per sale deed and denying their title. But there are wrong mutation entry of land on the name of plaintiff in Gat No.143. By taking disadvantage of said wrong entry plaintiff is denying the title and obstructing the possession of defendants. So, it is necessary to restrain the plaintiff from disturbing the title and possession of defendants over suit property. Otherwise, the act plaintiff will cause irreparable loss to defendants. Hence, he prayed to allow the application.

6. On the other hand, learned advocate for plaintiff argued that as per pleadings in plaint, the plaintiff has produced on record the copy of Gift deed and mutation entries. The said Gift deed and mutation entries shows that how the suit property comes to the plaintiff. As per produced documents the title of plaintiff is clear and undisputed. The sale deed produced by defendants is bogus. The mutation entries also has not sanctioned as per said sale deed. On this ground granting injunction in favour of defendants will cause plaintiff an irreparable loss. Hence, he prayed to reject the application.

7. Defendant for showing their possession over suit property produced on record the copy of sale deed. As per contents of sale deed defendant no.2 has purchased the 81 R land from Vaijanath Prabhu Munde on 18/10/1995 out of Survey No.21/1. But it is fact that as per sale deed the mutation entry is not sanctioned yet. It is contention of defendants that the plaintiff meeting hands with revenue authority does not allow sanctioning the mutation entry. But, defendants does not file on record any document to show that they have taken any effort to mutate their name as per sale deed. Learned advocate for defendants argued that as per section 154 of the Land Revenue Code, it is responsibility of revenue authorities to take the mutation entries as per sale deed. But, on failure on part of revenue authority and within huge period of 25 years since 1995 till today, the defendant did not take any effort to get their name mutated is goes against their favour. It is also fact that to prove possession over suit property, the defendants could file on record any receipts of land revenue or any other receipts of crop insurance or benefits received from Governments etc. But, the defendants have not filed any such documents to prove their possession over suit property. This fact also goes against their favour.

8. Further it is admitted fact that the Survey No.21/A after scheme of consolidation converted into Gat no.143. According to defendant as per sale deed dated 18/10/1995, they are having 81 R land into the Gat No.143. But as per sale deed, defendant no.2 has purchased 81 R land out of Survey no.21/1. So, it is question that whether Survey No.21/A and 21/1 are different or same. There is nothing on record to clear the said ambiguity. So, again this fact goes against the favour of defendants.

9. Further, it is case of plaintiff that to the northern side of suit property there is adjacent land property of defendants bearing Gat. No.142. This fact is admitted by the defendants. But according to defendants, there is 81 R land of them beside to their landed property in Gat no.142 towards northern side. But there is nothing on record to support this fact except the sale deed out of survey no.21/1.

10. As going through the copy of Gift deed dated 17/04/1978, it appears that the 3 acre land out of Survey No.21/A has been gifted to the plaintiff by Gunwant Shivaram Munde. As going through the Mutation entry No.695, it also appears that plaintiff and one Vaijanath Prabhu Munde purchased jointly 4 acre 1 R land out of Survey No.21/A from Dhondiram Bhimrao Lahane on 30/08/1981. As per case of plaintiff, she got her 2 acre share in said joint purchased land. So, she is having 5 acre land in Gat no.143. It is admitted fact that the Survey No.21/A afterward converted in to Gat no.143. Further, the 7/12 extract of Gat.No.143 shows that there are 2 H 4 R land is mutated on the name of plaintiff. All these documents prima facia shows that plaintiff is having 5 acre 4 Guntha land in Gat no.143 situated at village Koshtagaon.

11. So, considering all these facts, I am at the opinion that defendants have failed to prove their prima facia case that they are owner and possessor of the suit property. As there is nothing on record to show prima facia possession of defendants on the suit property, the balance of convenience also does not goes in the favour of defendants. So, not granting interim injunction in favour of defendants will not cause them any kind of irreparable loss. Hence, I give the answer in negative to the

Point No.1 to 3. As giving answer to the Point No.4, I proceed to pass following order.

ORDER

1. This Application (Exh. 23) stands rejected.

Place : Renapur.
Date : 21/09/2020.

Sd/-
(S. D. Yadav)
Jt.Civil Judge J.D.& J.M.F.C.

“I affirm that the contents of this P.D.F. File judgment are same word for word as per original judgment.”

Name of Steno : Smt. Bansode M.B.

Court Name : S. D. Yadav, Civil Judge J.D. Renapur.

Date of Judgment : 21/09/2020

Date signed by P.O : 21/09/2020

Judgment uploaded on : 21/09/2020