



Order passed below Exh.05 in RCS No.581/2019.
(Prabhavati & oths. Vs. Ayodhyabai & oths.)
CNR No. MHLA140015072019

This application is filed by plaintiffs for temporary injunction against defendant No.1.

2. Admeasuring 44 R land from Gat No.18 situated at village Mogarga, Tq. Ausa which is in the name of defendant No.1 (in short “suit property”).

3. In short plaintiff's case is as under :

According to plaintiffs, Manik Ram Chandure is the manager of their family. The plaintiff No.1 to 3 are daughters of Manik and plaintiff No.4. Plaintiff No.4 is wife of Manik. One son namely Ankush was died. Defendant No.1 is wife of Ankush. Defendant No.2 to 4 are the daughters of Ankush. The plaintiffs have filed present suit for partition and separate possession in respect of Hindu joint family property. The suit property and other properties are owned by Hindu joint family. The suit property is came in the name of defendant No.1 as per sale-deed dated 13-7-2017. The Manik has no right to execute sale-deed in favour of defendant No.1. The sale-deed executed without any legal necessity to the Hindu joint family. Therefore, the sale-deed executed in favour of defendant No.1 is illegal and not binding on plaintiffs right. By way of present application plaintiffs prayed temporary injunction that is restraining defendant No.1 from creating third party interest or alienating suit property. They lastly prayed for allowing application.

4. Defendants have filed their written statement at Exh.28. they denied all allegations, pleading and prayer of plaintiffs. According to

them, for the legal necessity of Hindu joint family the Manik has sold out the suit property. The suit property sold out for the payment of loan and medical expenses. Defendant No.1 has paid consideration amount. She has paid consideration amount from her Stridhan. The plaintiffs and other family members are not concerned with suit property. The suit property is self acquired property of defendant No.1. The suit property is not Hindu joint family property. They lastly prayed for rejection of application.

5. Heard learned Adv. Shri U.B. Patil for plaintiffs and Shri P.N. Kaldade for defendant No.1.

6. Following points are arises for my determination to which I have given my findings thereon along with my reasons.

Sr.No.	<u>POINTS</u>	<u>FINDINGS</u>
1.	Whether the plaintiffs are prima facie case for grant of temporary injunction as prayed for?	Negative
2.	Whether balance of convenience lies in favour of plaintiffs ?	Negative
3.	Whether the plaintiffs would suffer irreparable loss, if temporary injunction is refused?	Negative
4.	What order ?	As per Final order.

REASONS

7. Prima facie case, balance of convenience, and irreparable loss are the three ingredients for temporary injunction.

As to point No.1 to 3.

8. Plaintiffs pleaded that, the suit property is Hindu joint family property and without any legal necessity Manik has executed sale-deed in favour of defendant No.1 and it is illegal one. On the other hand, defendant No.1 pleaded that, the sale-deed is legal one and it was executed for the legal necessity, repayment of loan and medical expenses. Both the parties have admitted that, the Manik is original owner of suit property. He has executed sale-deed in favour of defendant No.1 on 13-7-2017. The record shows that, the defendant No.1 has paid consideration amount to the Manik. The Manik has executed sale-deed and handed over possession of suit property to the defendant No.1. The Manik died on 16-09-2018. Since from execution of sale-deed till filing of present suit the plaintiffs have not challenged the sale-deed. The prima-facie record shows that, the suit property was transferred in favour of defendant No.1.

9. Plaintiffs have pleaded that, the suit property was not sold for the legal necessity of the Hindu joint family. It is admitted that, the Manik was the Hindu joint family manager. The necessity of Hindu joint family is well aware by the Manik. For deciding the legal necessity of Hindu joint family, in my view, it is necessary to give the opportunity for adducing evidence and it needs to be decide on evidence. At this stage it is difficult to find that the sale-deed executed without any legal necessity. Therefore, I am not found any substance in the pleading of plaintiff that, the sale-deed is not executed for legal necessity.

10. Considering all above discussion, I am coming to conclusion that, registered sale-deed executed by Manik in favour of defendant No.1. The legal necessity of Hindu joint family is well known by Manik. The sale-deed executed on 13-7-2017. Till filing of present suit the plaintiffs have not challenged the registered sale-deed. Therefore, there is no case in favour of plaintiffs. Plaintiffs have failed to prove prima-facie case. The balance of convenience is not lies in favour of plaintiffs. If application rejected then, no irreparable loss will caused to the plaintiffs. Hence, I answer points No.1 to 3 in the negative and in answer to point No.4, I pass the following order.

ORDER

1. The application Exh. No. 5 is rejected.
2. No order of cost.

Date : 12/03/2020

(S. P. Jadhav)
Civil Judge J.D., Ausa.