

MHND060007242019



Spl.C.S. No. 13/2019

Megha Bhandare vs. Chandra Shekar & ors.

ORDER BELOW EXH. 43

This application has been heard along with application Exh. 05.

02. For the reasons assigned while passing order Exh. 05 in holding that part of suit property being the joint family property having been sold by defendant no. 5 without consent of other family members/ co-sharers and in view of fact that co-sharer of undivided interest cannot induct purchaser in possession and for the same reasons assigned for granting injunction in favour of plaintiff, defendant no. 7 must be held to have failed to establish prima facie case of himself being in possession of suit property.

03. Mr. D.V. Kulkarni has relied upon judgment in the case of *Hon'ble High Court of Bombay – Harishchandra Narayana Maurya V/S Rajendraprasad Dargahi Varma – 1996 CJ(Bom) 192* for convincing the Court that the temporary injunction can be granted even in the cases not prescribed for by Order XXXIX of the Code of Civil

Procedure, 1908. However, these cases are required to be the exceptional cases and for the reason assigned earlier, this case does not warrant the exercise of discretion to grant injunction not provided for by Order XXXIX of the Code of Civil Procedure, 1908 is justifiable. Hence the order :

ORDER

The application is rejected.

Date :- 09/10/2019

(D.R. Deshpande)
Civil Judge, Sr. Division, Biloli

CERTIFICATE

I affirm that the contents of this PDF file judgment/Order are same, word to word, as per original Judgment/Order.

Name of the Court :- C.J.S.D., Biloli.

Name of Stenographer :- M.F.M. Sayyad.

Date of order :- 09-10-2019.

Order signed by the P.O. on :- 11-10-2019.

Order uploaded on : 11-10-2019.