

ORDER BELOW EXH. 21
(Passed on 13 /12/2023)

This is a suit for partition and separate possession. The plaintiff by way of this application seeks an interim order restraining the defendant no. 3 from further alienation of the suit properties.

02 According to the plaintiff, the suit properties are their ancestral properties. The partition is not yet effected. Plaintiff and defendants have the shares in the suit properties. However, the defendant No. 3 is taking disadvantage of being nominal owner of suit properties, illegally selling the suit properties. Th learned counsel for defendant no. 3 filed say overleaf the application and raise objection on the ground that application filed by plaintiff is not legal and prayed for rejection of it.

03 Heard the learned counsel for the plaintiffs Shri P. V. Gaikwad and learned Counsel for defendant no. 3 Shri K. S. Baig. Perused the record and the affidavits filed in support of the application. The name of the defendant no. 3 appears in the 7/12 extracts of suit properties. The plaintiff also filed on record copy of sale deed no. 1037/2023. The sale deeds reveal that the defendant No. 3 has sold some portion of property in gut no. 4 on 27. 06. 2023 to defendant no. 6 and 8. The plaintiff is also having apprehension that defendant no. 3 will sell suit properties to third person with view to create third party interest. Today defendant no. 3 filed application for time to file his written statement and say on Exh. 5. The learned advocate for defendant no. 3 submitted that defendant no. 3 is owner of suit properties therefore he is having constitutional right to sell it. Considering the submission of both parties and on perusal of record it shows that, a question relating to immovable property is involved in the suit. If the alienation is not restrained, there is every possibility of multiplicity of litigation. In the circumstance following order is passed.

ORDER

1. Application at Exh. 21 is allowed.
2. Defendant no. 3 is directed to maintain status-quo till filing of his say to the application for temporary injunction.

D: 13.12.2023.

Sd/-
(Smt. M. B. Sakhare)
3rd Jt. Civil Judge J.D.,
Kandhar