

Order Below Exh. 32 in RCS No. 103/2021

Nagnath Vs. Sanjay and others

Perused the application alongwith say thereon. By way of present application plaintiff seek for status-quo in respect of one of the suit property bearing property no. 18/105, situated at Kandhar. As per plaintiff, he has sought for partition and separate possession in respect of suit property. Defendant no. 4 in collusion with the officer at Nagar panchayat, Kandhar by cheating with plaintiff and other defendants manage to enter his name in respect of property no. 18/105. On the basis of the said fact, defendant no. 4 is trying to alienate the said property to third person. Therefore, plaintiff seek for status-quo till next date in respect of the said property.

02. The defendant no. 4 resisted the present application on the ground that, the present application is not tenable in the eyes of law. As per defendant no. 4 the case is for hearing on Exh. 05. It is the plaintiff who remain absent in the case therefore, the case is adjourned for hearing on Exh. 05. Therefore, as per defendant no. 4 the present application is not tenable vis-vis the plaintiff is not entitled to status-quo in the case. Hence, he sought for rejection of the present application.

03. I have gone through the aforesaid rival submission in the light of documents filed on record. Admittedly, the plaintiff come up with the suit for partition and separate possession in respect of suit property wherein property no. 18/105 is a subject matter thereof. As per plaintiff, the suit properties are his ancestral property therefore, he is entitled to his share therein. It is the contention of plaintiff that, property no. 18/105 was in the name of his deceased father Narharrao Gajre,

however defendant no. 4 fraudulently without consent of plaintiff and other defendants manage to enter his name.

04. On the basis of said fact, defendant no. 4 is trying to alienate the said property to third person. Therefore, he has applied to Nagar Parishad, Kandhar for measurement certificate of the said property. In support of the said fact, the plaintiff filed on record at Exh. 35 sr.no. 1 such application dated 16.12.2021. After going through the said application, it appears that Manoj Narharrao Gajre applied to the Nagar Parishad, Kandhar on 16.12.2021 for measurement certificates of property no. 18/105. As against the said fact, defendant no. 4 submits that, though he applied for such certificates, however he is not intended to sell it. Admittedly, the said fact is not suffice to inspire the confidence of the court because despite of sufficient knowledge of the litigation in respect of said property defendant no. 4 applied for such certificates, which make the apprehension of the plaintiff more probable and logical.

05. Though, defendant no. 4 submits that, the present application is not tenable, however he pointed out no such provision which will support his contention. On the contrary, it is the very object of status-quo to protect the property in disputes till decision of the suit or application, to avoid complicity in the matter. Considering the said fact, when, I scrutinized the facts in the case at hand, it appears that as per plaintiff said properties are their joint family properties. In such circumstances, in order to decide the suit on merit or application (Exh. 05) it is essential to protect the nature of properties. If, the nature of properties is protected, no prejudice will cause to defendant no.4. Admittedly, as per defendant no. 4, he is no intended to sell out the said property. Therefore, in my view, if status-quo is granted no prejudice will cause to defendant no. 4.

06. In addition plaintiff in support of his contention relied upon the affidavit of proposed purchaser and witness thereon at Exh. 36 and 37. After going through the said affidavits, it appears that, the apprehension express by the plaintiff as to the alienation of property no. 18/105 by defendant no. 4 is seems to be probable and logical one. Hence, in my view in order to avoid complicity in the matter and to protect the property being alienated, it would be just and proper to maintain status-quo. Hence, following order-

ORDER

1. Application is allowed.
2. Status-quo in respect of property no. 18/105, situated at Ram nagar galli, Nagar Parishad, Kandhar is granted till next date. Thereby, defendant no. 4 is temporary restrained to alienate the said property till next date.

sd/-

(P.D. Azade)

2nd Jt. Civil Judge(Jr. Dn.)
Kandhar.

Date : 22.12.2021