

MHNG130003032019

RCC No. 16/2019

Ashok Vs. Ganpat



ORDER BELOW EXH.55
(Passed On: 25.10.2025)

1. This is an application preferred by the plaintiff for maintaining the status-quo of suit property till the disposal of the Exh.5 against defendants. On the said application, defendants have filed the pursis Exh.59 and submitted that, the say/reply filed on Exh.41 vide Exh. 58 is considered as say to the present application. Heard, Learned Advocates for both the parties. Hence, the application proceeded without their say. the Perused documents filed on record by plaintiff and defendants.

2. It is submitted by the plaintiff that, he has filed suit for declaration, permanent and mandatory injunction against the defendant. During the proceeding the defendants started illegal construction in the suit property by demolishing the toilet and bathroom. Therefore, plaintiff has moved the temporary injunction application before this Court praying for stopping construction work in Survey No. 1928 of new house No.188, Sheet No.18, admeasuring 105.00 Sq.M. During pendency of this suit, defendants in September-2024 without permission of this Court, demolish the suit property i.e. toilet and bathroom. Now defendants are carrying out illegal construction work on the suit property without the permission of Court. Therefore, nature of the suit is changed. The plaintiff has moved the temporary

injunction application before this Hon'ble Court. Till the decision in said application the status quo is required to be granted so as to protect the suit property. If the same is not granted the plaintiff will cause irreparable loss and accordingly prayed to allow this application.

3. The defendants opposed the application by filing their say below Exh.58. It is the contention of the defendants that, the present application of the plaintiff is not tenable as the prayer in the main suit is that of different from the prayer made in the temporary injunction application. Further, the defendants have taken permission for the said construction from the appropriate authorities. They are the owners of the survey No.1928 and the same is not disputed by the plaintiff. The defendants have also sanctioned their construction plan and accordingly construction work is going on in the Survey No.1928.

4. It is further contended that, as per contention of the plaintiff, the suit property i.e. construction of Toilet and Bathroom was on the Government land which is in front of Survey No.1927. However, the construction work is going on Survey No.1928. The defendants have taken all the necessary permission and sanctioned the plan before carrying out any construction work in the said property. The concern government authorities have also not taken any objection for the said construction work. If the status quo is granted, irreparable loss will be caused to the defendants. Further, the plaintiff has not made out any prima-facie case. The balance of convenience is the favour of defendants and accordingly prayed for rejection of the

application.

5. Heard both sides at length, during the argument learned advocate for the defendants relied on the citation of Hon'ble High Court of Gauhati, in *Civil Revision No.230/1993, Gadadhar Barman Vs. Ranendra Mohan Paul* reported in MANU/GH/0110/1997.

With due respect, to the citation referred, I have gone through the citation, the facts of citation are different from the facts of the present case. However, ratio laid down in the citation and decided the present application.

6. Perused the application and say, so also, the documents filed on record from both the parties. It is advert from the record that, the plaintiff has filed the present suit for the declaration, permanent and mandatory Injunction. It is contention of the plaintiff that, the defendants have change the nature of the suit property and they have demolish *Toilet and Bathroom* illegally and now carrying out illegal constriction work thereon without any prior permission of the court and thereby changed the nature of the suit property. The plaintiff have moved the temporary injunction application before this court however time will be required to decide the application therefore till that time Status quo order be granted.

7. On the said contention it be perused available record and documents filed by both the parties, it is not disputed that the defendants are the owner of the survey No. 1928. Further, the suit property is illegally construction work of *Toilet and Bathroom* on the road i.e. on the Government Property. From

the documents filed on record, it is prima-facie seen that, the construction work is going in Survey No.1928 i.e. of defendants and with the permission of the concerned authorities and as per sanction plan. Till the date the government authorities have not taken any objection regarding illegal construction. So also, the plaintiff has also not filed any documentary evidence showing objection taken by the concerned government authorities regarding carried out construction by the defendants.

8. Moreover, it is also worthwhile to mention here that, Ld Advocate for the defendants draw my attention towards the prayer clause in the suit Exh.1 and prayer made in the temporary application both are different and plaintiff has not made any changes in the main suit to that effect. I find force in the said argument.

9. Considering the documents on record and as discussed above at this stage, I do not find any necessity to grant status-quo order till the disposal of the Exh.5 application. Further, the apprehension of the plaintiff is well protected by the principle of lis - pendency. Hence, I pass following order:-

ORDER

The application Exh.55 is hereby rejected.

(Pronounced in Open Court.)

Date : 25.10.2024.
Place : Ramtek

(Smt. D.S. Saindhane)
2nd Joint Civil Judge J.D.,
Ramtek.

CERTIFICATE

I affirm that the contents of this P.D.F. file of order are same word to word as per original order.

Name of Stenographer : A.H.Ghosekar
Stenographer G-III