

**Regular Civil Suit No.3/2022**  
**Meenakshi Vs. Lalchand @ Lalaji**

**COMMON ORDER BELOW EXHIBIT - 5**  
(Passed on this 2<sup>nd</sup> day of February,2024)

1. Heard learned advocate Shri. Karamkar for the plaintiff.  
Learned advocate Shri. P. S. Sayare for the defendant no.3.

2. While deciding application under Order 39 Rule 1 and 2 of Code of Civil Procedure it is necessary to see three golden rules. Those points are given along with my finding as under:-

Sr. No.	Points	Findings
1.	Whether plaintiff has shown prima facie case in his favour?	...In affirmative.
2.	Whether plaintiff has balance of convenience in his favour?	...In affirmative.
3.	Whether irreparable loss will cause to the plaintiff if injunction not granted?	...In affirmative.
4.	What order?	...As per final order.

**REASONS**

**As to Point No.1 to 3:-**

All points of interlinked with each other to avoid repetition they are discuss together.

3. Learned advocate Shri Karmarkar for the plaintiff argued that, the suit property was ancestral properties. It was inherited from Bapurao Verma by Nawalchand. Bapurao Verma have three sons namely Nawalchand, Chhagan and Ramchandra.

Partition was already taken place in between Nawalchand, Chhagan and Ramchandra. According to said partition, the suit properties fell into the share of Nawalchand. The plaintiff's right have accrued coparcenary right by virtue of Section 6 of Hindu Succession Amendment Act 2005. Plaintiff's are become the coparcner of the suit properties by birth. Defendant no.1 had already disposed of and transferred her share in favour of defendant no.4 and 5. Now the defendant no.3 is executed agreement in favour of defendant no.6 for transfer of property. Hence, requested to allow the application.

4. On the other hand, learned advocate Shri. P. S. Sayare for the defendant no.3 argued that, partition deed already taken place among the defendant no.1 to 3. The plaintiff have no right to challenge relinquishment deed executed in the year 1989 by her father Nawalchand. However, the plaintiff has not arrayed all the joint properties of Nawalchand for partition. Deceased Nawalchand had executed sale deed in favour of plaintiff no.3. It was also necessary party in the present suit for partition. Hence, requested to reject the application.

5. Perused the documents filed by the plaintiff, it shows that the name of Nawalchand and Ramabai were recorded in the revenue record of suit property. Later on the name of defendant no.1 to 3 were come to be recorded by virtue of mutation entry number 101 dated 20/02/1989. On perusal of Adhikar Abhilekh Panji it would show that, the name of Nawalchand was recorded as a manager (Karta). But on 06/07/1972 partition took place in between Nawalchand, Laxman and Ramchandra. This fact is not

disputed by the either parties. On perusal of mutation entry no.101 it would show that Nawalchand Bapurao Verma executed relinquishmet deed in favour of present defendant no.1 to 3. The plaintiff has challenged this relinquishment deed in the present suit.

6. From the averments, it appears that, Nawalchand was died in the year 2011. But they are claiming co-parcnery right by virtue of Section 6 of Hindu Succession Amendment Act 2005. Admittedly, the Salutorye enactment has conferred right of co-parcner by birth to the daughters. At this juncture the validity and invalidity of relinquishment deed cannot decide, it is the matter of trial. Further it appears that the defendant no.1 has executed registered sale deed in favour of defendant no.4 and 5 and tranfer property no.541 admeasuring area 0.81 R.

7. On perusal of sale deed no.357/1999 it would show that, deceased Chhagan had executed registered sale deed in favour of plaintiff no.3 of property agricultural land bearing survey no.338/1, admeasuring area 0.91 R. On perusal of said sale deed it shows that, the ancestral property was transferred in the name of plaintiff no.3. In my considered view the property is also necessary in the present suit. But the plaintiff may face the consequences for non addition of joint property. At this juncture the question is only before me whether plaintiff has established the prima facie case. In my considered view, there are many complications involved in the present suit. Even the facts are needs to be interpreted in the light of Section 6 of Hindu Succession Amendment Act 2005. All these questions can be

decided only at the stage of during trial. Hence, I am of the view that, it is the fit case to say that, the three golden rules lies in favour of plaintiffs. The plaintiffs has brought sufficient material that the suit properties are likely to be transferred or create third party interest . Therefore, protection of right is necessary. Hence, the answer point no.1 to 3 are given in favour of plaintiff and in affirmative.

**As to Point No.4:**

Considering finding of point no.1 to 3, I am come to conclusion that, the present application is deserve to be allowed. Thus, I proceed to pass the following order:-

**ORDER**

1. Application Below Exh.5 is hereby allowed.
2. Defendant no.1 to 3 are hereby restrained from alienation and creating third party interest over the suit property till final decision of the suit.
3. Parties to bear their own costs.

Parseoni  
Date:02/02/2024

(O.J. Kulkarni)  
Civi Judge Jr.Division,Parseoni

Argument heard on	15/12/2023
Order passed on	02/02/2024
Dictated on	02/02/2024
Transcription ready on	02/02/2024
Order checked and singed on	03/02/2024

**CERTIFICATE**

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

**Name of Stenographer**-M.Y. Mushtaque