

CNRMHNS130007352019

Reg. Civil Suit No. 59/2019
Dyaneshwari . Vs. Vikram & Ors.

ORDER PASSED BELOW EXH.5

The present application has been filed by the plaintiffs seeking temporary injunction in order to restrain the defendants from alienation of the suit property till the disposal of the suit. Perused the application and say filed by defendants. Heard both.

2. **Plaintiff's case is as follows:-**

Plaintiff no.1 is daughter and plaintiff no. 2 is the wife of defendant no. 1. There is strained relationship between plaintiff no.2 and defendant no.1. It is the contention of the plaintiffs that suit property is ancestral property of defendant no.1. Plaintiffs have their share in the suit property. Plaintiff no.1 is the co-parcener in the suit property. The defendants are trying to alienate the suit property. The plaintiffs requested the defendant to give their share in the suit property. However, the defendants denied the same. Therefore, plaintiffs have filed present suit for partition and separate possession.

3. **Defendant's case:-**

Defendant no. 1 to 3 and 5 have filed their written statement and say vide Exh.27 and denied all the contentions of the plaintiffs. Plaintiffs have no concerned with the suit property. The

defendants have never tried for alienation of the suit property. Hence, lastly, they prayed for rejection of the application.

4. Taking into consideration, the case of both parties and arguments advanced by learned advocate for the plaintiffs and defendant, following points arise for my determination to which I have given reasons and findings thereon:-

	<u>POINTS</u>	<u>REASONS</u>
1.	Whether the plaintiffs prove that prima-facie case is in their favour ?	No.
2.	Whether the plaintiffs prove that the balance of convenience tilts in their favour?	No.
3.	Whether the plaintiffs prove that irreparable loss would be caused to them, if application is rejected?	No.
4.	What order?	Application is rejected.

REASONS

AS TO POINTS NO. 1 to 3 :-

5. As to point no. 1 to 3 are interlinked with each other and hinge upon the same pivotal, hence, in order to maintain the flow of discussion, all the points are clubbed together for discussion.

6. It is worth to mention here that none of the party has

disputed the bond of relations which they are sharing with each other. The status of plaintiff as a coparcener is also not disputed. The nature properties to be ancestral properties of plaintiff and defendant no. 1 to 5 are also not disputed.

7. So far as concerned to the injunction in the partition suit, it is the settled law of suit relating to the partition under Hindu Law that a Karta has indefeasible right to manage the properties of Hindu Undivided Family. The power of Karta cannot be interfered by any number of coparcener having interest in the Hindu Undivided Family. Undoubtedly, the illegal transfer by the Karta shall not bind the share of other coparcener, but at the glance, the powers of Karta cannot be restrained by the injunction order. Hence, I found no merit in the application. Needless to say that Section 52 of the Transfer of Property Act shall be equally applicable to further transactions. With these observations I answer all the points in the negative and in answer to point no. 4, I reckon to pass the following order :-

ORDER

1. Application at Exh. 05 is rejected.
2. Costs in cause.

(Dictated & pronounced in open Court)

Date:- 03/09/2024

(Prasad D. Kolekar)
Civil Judge Junior Division ,
Pimpalgaon (B.)