

**CNR No. MHNS14-000542-2019.**

**Savita Uttam Jadhav.**

**Vs**

**Gokul Kashinath Avhad + 3.**

**ORDER PASSED BELOW EXH.05 IN R.C.S. No. 68/2019.**

Suit is filed for declaration and perpetual injunction. This application is filed by the plaintiff under Order 39 Rule 1 and 2 of the Code of Civil Procedure. Heard detailed argument of Ld. Advocate of the plaintiff. He argued for granting *ad-interim* injunction against the defendants.

2] Gat No.97 situated at village Pimpri Anchala admeasuring 2 H. 82 R. was originally owned and possess by Mr. Sahebrao Bapurao Patil. Plaintiff purchased this property for consideration of Rs. 3,60,000/- in the year 2009. Accordingly, mutation entry no. 268 was entered since then, plaintiff is owner and in possession of the said property. (*hereinafter referred as "suit property" for the purpose of brevity*). She also borrowed loan of Rs. 10,00,000/- from the defendant no.1 and as security for the said transaction, it was agreed between them execute document to that effect. The plaintiff was under the impression that for security to the said loan of Rs. 10,00,000/-, she was about to execute *Usanwar Dast*. However, by cheating her the defendant nos. 1 and 2, executed agreement to sell and special power of attorney on 27/08/2015. The plaintiff repaid the loan as per the agreed terms and conditions between her and the defendant no.1 till 15/03/2017. Thereafter, the

defendant no.1 asked the plaintiff to pay the amount of loan to the defendant no.2. Hence, the plaintiff gave two cheques each of Rs. 5,00,000/- to the defendant no.2.

3] The defendant nos. 1 and 2 convinced the plaintiff that *Usanwan Dast* executed between them was automatically cancelled as they received payment from her. On 21/06/2018, the plaintiff came to know that the defendant nos. 1 and 2 cheated on her and executed in legal documents regarding the suit property i.e. the defendant no.2 got executed special power of attorney bearing no. 3138/2015 in his favour and the defendant no.1 executed document of agreement to sell bearing no. 3137/2015. Not only this, sale deed bearing no. 4399/2015 was also executed in favour of the defendant no.1 regarding the suit property. Property was never handed over to the defendant no.1, she is till in possession of the suit property. All these documents are illegal, bogus without consideration and possession. But, the defendant no.1 is about to sell the suit property on the basis of these illegal documents. Hence, the plaintiff is compelled to file the suit and also move this application.

4] Perused the documents filed alongwith list at Exh.3. *Prima facie* is appears that, the plaintiff borrowed loan of Rs. 16,05,000/- on 06/01/2010 and another loan of Rs. 11,00,000/- on 02/08/2010 on the suit property. It has to be considered that, if the loan of Rs. 27,05,000/- was given to the plaintiff on

02/08/2010 on the security of the suit property, it is not possible that in the year 2015, said land was sold for the consideration of Rs.10,25,000/-. It certainly shows that, the matter before the Court has to be considered on this aspect. Of course, during the trial entire evidence of both the sides will focus on the truth. However, if meanwhile, the defendant would transfer or deal with the suit property in any way, plaintiff will *prima facie* suffered irreparable loss which cannot be compensated in the terms of money. It will also constitute hurdles in the administration of justice. Hence, at this juncture it would be just to grant ad-interim injunction against the defendant till their appearance and filing of written statement. Accordingly, I proceed to pass following order :-

**-:: ORDER ::-**

1. The *ad-interim* temporary injunction is granted against the defendants no.1 and 2 till filing of their written statement on record.
2. The defendants no.1 and 2 are temporarily restrained from dealing or transferring the suit property in any way till filing of their written statement.
3. The plaintiff is directed to comply Order 39 Rule 3 (a) of the Code of Civil Procedure immediately.

Sd/-xxx

( Smt. S. P. Kulkarni )

Date :- 17/05/2019.  
Place :- Dindori.

I/c. Civil Judge, Junior Division,  
Dindori.