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**CNR NO. MHNS18-000969-2018**

**RCS NO. 55/2018.**

**ORDER BELOW EXH. 05.**

The present suit is filed for declaration, possession and permanent injunction in which the present application for interim injunction is made. The plaintiff/applicant prays that defendant nos.1 to 4 be restrained from pulling down the construction of the shop and also claims that, new construction be stopped.

2. It is the contention of the plaintiff that, gat No. 508 at Mauje Kharda, Tq. Deola admeasuring 0.10 R out of which a shop situated on Kharde Bhaur Road, towards west admeasuring 20 feet east-west and 16 feet north southern is the suit property. As per the partition dtd. 16/03/1990. the suit property came in his possession and his construction a shop in year 1998 which is the suit property. The same was in the possession of the plaintiff till 2005. From 2004 to 2016, the shop was rented to Kiran Shravan Khairnar who was conducting business of Yas Krushi Agencies in it. Since 2016, the suit property is in the possession of the plaintiff. On 24/07/2018, defendant nos. 1 to 4 and his family members claimed right over the shop and tried to forcibly take possession of the same. Though the plaintiff lodged a complaint with the Deola police station they neglected the same being family matter. On 10/08/2018, plaintiff nos. 1 and 2 along with his sons started pulling down the old construction of the shop when the

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plaintiff his son tried to stop them, they abused the plaintiff and threatened them with dire consequences. Because of his insistence the plaintiff B.P. shoot up who is already suffering from heart disease. The plaintiff also suffers from brain problem and gets fits. It is also learnt that, defendant nos. 1 to4 are planning to construct a new building at the spot. Hence, the application.

3. Heard Ld. Advocate Shri. D.N.Sonawane for the plaintiff. Perused the application and affidavit filed along with it. Also perused the documents filed alongwith list Exh. 3 as per the record, it appears that the plaintiff is in possession of suit property. As per the photographs produced, it is seen that the construction is being pulled down. As per the N. C. case produced on record some incidence has occurred on 10/08/2018. The plaintiff has prima facie proved. Hence, ownership as well as possession over the suit property. From the record, it appears that, the defendant nos. 1 to4 are disturbing his possession, the cause of action has occurred on10/08/2018 and the present suit is filed today i. e. on 13/08/2018. There are chances that the construction might have been destroyed till the time the plaintiff has approached the Court. At least, further destruction if any or new construction is required to be stopped in the suit property in the interest of justice to protect the property itself, as well as the rights of the parties involved in the same. I am satisfied that, the plaintiff has made out a prima facie case protection of his rights. As well as the

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property also needs to be protected from any damage to it. Therefore, I find it just to pass an order of status-quo without giving prior notice to the defendants till filing Say/W.S. by the defendants. The plaintiff shall comply the provisions of Order XXXIX Rule 3 (a) of Code of Civil Procedure. Hence, I pass the following order :-

**ORDER**

1. Parties to maintain status-quo till filing of Say/W.S. by the defendants.
2. Plaintiff shall comply Order XXXIX Rule 3 (a) of Code of Civil Procedure.

Place : Kalwan.  
Date : 13/08/2018.

Sd/-xxx  
( Swara S. Parkhi )  
Civil Judge, J. D.,  
Kalwan.