



RCS No.48/2021
Kalu +01 V/s. Kondaji + 03
MHNS230012252021

ORDER BELOW EXH.05

Heard Mr. N.H.Katore the learned advocate for the plaintiffs'. Perused the entire record. This is a suit for partition and perpetual injunction. The defendants are alleged as the kinsmen of the plaintiffs'. Para no.07 of the plaint shows that the cause of action accrued to the them for the first time in March 2021. Therefore, it is clear that the suit is instituted after huge delay of accrual of cause of action. The Hon'ble Supreme court in **Morgan Stanley Mutual Fund.Vs Kartic Das (1994) 4 SCC 225** has observed that if the suit is instituted after some delay of accrual of cause of action, ex-partae temporary injunction should be refused. Thus, in this view of the matter, this court is not inclined to consider plaintiffs' prayer ex-partae and the same can be looked into upon appearance of defendants. Hence, issue notice to defendants as to why the temporary injunction as claimed by the plaintiffs' should not be allowed in their favour. EP and SB if any is allowed. Hamdust is also allowed. Order accordingly.

Date: 11.06.2021

Sd/-
(P. P. Giri)
Civil Judge (J.D.), Igatpuri