

CNR NO.MHPU100001812023



Order passed below Exh.28.
(Passed on dated:- 28/02/2024)

The present application is filed on behalf of the plaintiff for seeking the order of temporary injunction against the defendants. It is submitted herein that the defendants destroyed 50% structure on the suit property on 23/02/2024. It is legal and residential in nature. If the whole structure is demolished then the suit will become infructuous. Hence, it is prayed that this application for temporary injunction may kindly be allowed.

2. The defendants filed say. It is contended on their behalf that application is not bona fide. Notice was sent to the plaintiff under Section 53 of the MRTP Act. Application is vague and without merit. Ultimately, they prayed for rejection of this application.

3. On considering the copies of the documents filed on record, it *prima facie* transpired that the plaintiff is paying property tax to Pimpri Chinchwad Municipal Corporation (*henceforth would be regarded as PCMC for the sake of brevity*) PCMC. He has issued one letter to PCMC for restraining from proceeding further with the act of demolition of the suit property till the order of the Court on the present application. Whether PCMC had checked its records as to the legality of the construction on the suit property before generating the said property tax bill is not known at this stage. Moreover, the alleged illegal construction is *prima facie* utilized for residential purpose. The plaintiff has knocked the doors of this Court to protect his property from

demolition. Residence is basic need of the human being. This suit will be finally decided in future. For that sake, the suit property itself has to be protected. Otherwise, the suit would become infructuous. In such circumstances, the action that has been taken by the defendants i.e. PCMC for removal of alleged illegal construction *prima facie* seems to be arbitrary. The existence of circumstances compelling such unusual haste could not be gathered from the documents available on the record at this stage. Hence, *prima facie* I am of the opinion that this is the fit case to issue *status quo* to the defendants till final decision on the application below Exh. 5. For deciding the application at Exh. 5, hearing both the parties on merit is necessary. Accordingly, I proceed to pass the following order-

ORDER

1. The defendants are directed to maintain *status-quo* in respect of the suit property till final decision of the application at Exh. 5.
2. Plaintiff to comply the provisions of order XXXIX rule 3 of Code of Civil Procedure immediately.

Sd/-xxx

Dated: 28/02/2024.

(S. P. Kulkarni)
Civil Judge Junior Division
P.C.M.C. Court, Akurdi, Pune.

CERTIFICATE

“I affirm that the contents of this P.D.F. file Order are same word for word as per original Order”.

Name of Stenographer :- Shri. P. B. Jadhav

Court Name :- Smt. S. P. Kulkarni
(J.M.F.C.) Civil and Criminal Court
(P.C.M.C.), Akurdi, Pune.

Date :- 28/02/2024

Order signed by
presiding officer on :- 28/02/2024

Order uploaded on :- 28/02/2024