

Order Below Exh. 54 in R.C.S. No. 111/2019

Avinash V/s. Chandrabhaga

This is an application by the plaintiff for ad-interim injunction restraining defendant no. 6 and 7 for not to change the nature of suit property and to maintain statu-quo.

02. Defendant no. 6 and 7 appeared through their advocate dated 24-04-2019 and on same day they filed written statement and say on Exh. 5. The application filed by the plaintiff on 05-10-2019, along with photographs of suit property and copy of application made by plaintiff to P. I. of Jejuri Police Station restraining defendant no. 6 and 7 for to stop digging in the suit property. Despite of opportunity defendant failed to file their say on this application therefore, the application is proceeded without say.

03. Heard Ld. Advocate Shri. M. D. Jadhav for the plaintiff. He submitted that, suit is for declaration and permanent injunction. According to him, on 29-09-2019 the defendant no. 6 and 7 was starting work to excavate soil and rocks from the suit property with the help of J.C.B. and labour. It is further submitted that, the defendant no. 6 and 7 are trying to change the nature of suit property. When the plaintiff requested that, for not to excavate, they neglected and threatened him. The plaintiff apprehends that defendant no. 6 and 7 are again attempting to change the nature of suit property Gut no. 134 Hence, the plaintiff prayed for ad-interim order to maintain status-quo till final order on application Exh.5.

04. Perused material on record. The suit is for declaration and permanent injunction. The plaintiff prayed for maintain status quo of suit property till the final decision of Exh. 5. The plaintiff stated that, on 29-09-2019 the defendant no. 6 and 7 started work of excavating soil and rocks. To support his contention he filed on record photographs of suit property and application to P.I. of Jejuri Police Station along with Exh. 55. On perusal of photographs it appears that, the digging work started by defendant no. 6 and 7. On perusal of application given by the plaintiff to P. I. Of Jejuri Police Station dated 02-10-2019 subsequently, after incidence. It shows the urgency in this matter.

05. I also perused documents filed by the plaintiff along with Exh. 3. In 7/12 extracts the name of the plaintiff appeared in ittar hakka(इतर हक्क) column. Also the name of defendant no. 6 and 7 appeared in occupant column. Therefore, prima facie it appears that, the suit property is in possession of defendant no. 6 and 7. In light of above facts and circumstances it reveals that, though defendant no. 6 and 7 are in possession of suit property but the claim of plaintiff is also in respect of suit property i.e. Gut No. 134. Suit is still pending on Exh. 5 which is decided by hearing of both parties. Therefore, taking into consideration, the purpose of injunction to protect the suit property, it would be appropriate that, both parties are maintain the status quo. Hence, I pass following order;

ORDER

01. Application is partly allowed.

02. Both parties should maintain status quo of suit property.

03. The plaintiff and the defendant no. 6 and 7 is hereby directed that to maintain the condition of suit property i.e. Gut No. 134 as it is, which is in possession of defendant no. 6 and 7 till the decision of Exh. 5.

(**Smt.D. M. Patil**)
2nd Jt.Civil Judge Junior Division,
Saswad

Date – 11/02/2020.

CERTIFICATE

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

Name of Steno : Mr. K. N. Chopade, (Grade 3)

Court Name : Smt. D. M. Patil
C.J.J.D. & J.M.F.C., Saswad.

Date of Order : 11/02/2020

Order signed by presiding officer on : 11/02/2020

Order uploaded on : 12/02/2020