

ORDER BELOW EXH. 5 IN R.C.S. No. 325/2016

Dnyaneshwar Pawar V/s. Mahadeo Kamthe & Ors.

This application is filed by plaintiff under order 39 rule 1 and 2 of the Code of Civil Procedure.

2. It is contention of plaintiff that, the suit is filed for Specific performance of contract wherein agreement to sale of suit property – Gat No. 660 area 0. H. 17.5. R at village Chambali, Tal. Purandar was executed by defendant's Grandfather late Sopan Ganpat Kamathe in favour of plaintiff on 08/10/1998. During the pendency of suit defendant no. 1 to 4 sold out suit property to defendant no. 5 and defendant no. 5 sold out suit property to defendant no. 6 and 7. Despite order of status-quo against the defendant no. 6 and 7 executed sale-deed dtd. 10/02/2021 in favour of defendant no. 8 and 9. The plaintiff has got information that defendant no. 8 and 9 are also trying to sale the suit property to third person. If the suit property is alienated to third person, complication in the suit may be created. Hence, it is necessary to restrain defendant no. 8 and 9 from alienated suit property to third person.

3. Heard Shri. M. D. Jadhav Adv. for the plaintiff.

4. The copy fo deed of agreement to sale dated 08/10/1998 executed by Sopan Ganpat Kamathe in favour of plaintiff. The 7/12

extract of suit property on record, which prima facie shows that, the plaintiffs name is entered in cultivators columns extend to O. H 17.5.R. the name of defendants is entered in owners column of 7/12 extract of suit property. Record also shows that, there is multiple transaction created by defendant no. 1 to 4, defendant no. 5 and defendant no. 6 and 7. Record also shows that, there is order of status-quo against defendants. Despite order of status-quo defendants have created third party interest during the pendency of suit. Accordingly, parties are impleaded in the suit. The suit property has been alienated from defendant no. 1 to 4 in favour of defendant no. 5, defendant no. 5 in favour of defendant no. 6 and 7, defendant no. 6 and 7 transferred the suit property to defendant no. 8 and 9.

5. Plaintiff filed on record the copy of sale-deed execute in favour of defendant no. 8 and 9. It appears that, suit property transferred from one party to another. Today defendant no. 8 and 9 appeared and sought adjournment for filing say and written statement. There is apprehension that, defendant no. 8 and 9 are trying to alienate the suit property again. Apprehension raised by plaintiff is not without reasonable cause. In this situation for avoiding complications it will be proper to restrain defendant no. 8 and 9 by way of ad-interim injunction from alienating suit property to extend of O. H. 17.5R. If delay occurs in grant of injunction, such delay shall defeat the purpose of granting the injunction. Hence, I pass following order;

ORDER

1. Defendant no. 8 and 9 are directed that, not to create third party interest or encumbrances over the suit property or not to disturb possession of plaintiff till filing their say.
2. Issue show cause notice to defendant no. 8 and 9 as to why ex-parte injunction should not be continued in favour of plaintiff, r/o 24/01/2022.
3. Plaintiff shall comply Order 39 R. 3 (a) of the Civil Procedure Code.

Saswad
Date:-04/12/2021

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

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 : Mrs. S. R. Kamble, (Grade 3)

Court Name : Smt. D. M. Patil
2nd Jt. C.J.J.D. & J.M.F.C., Saswad.

Date of Order : 04/12/2021

Order signed by presiding officer on : 04/12/2021

Order uploaded on : 06/12/2021