

ORDER BELOW EXH.12 IN CIVIL APPEAL NO.47/2015.

1] Read application, say on it at Exh.17, affidavit and documents placed on record. Heard Advocate for both parties.

2] Respondent No.1 has stated that he had filed R.C.S. No.26/2011 for partition and perpetual injunction against Appellant No.1 to 9 before Joint Civil Judge Junior Division, Alibag. On 09/02/2015, suit is decreed. He himself and Appellant No.1 to 8 are entitled for 1/3rd share in suit property. Appellant No.1 to 8 have been restrained from causing obstruction in using public road in C.T.S. No.324. Appellant No.1 has carried out construction of toilet tank without permission of Gram Panchayat. He has caused obstruction in road. He is trying to change nature of suit property. If nature of property is changed, he will suffer irreparable loss. Therefore, he has filed application for restraining Appellant No.1 from carrying new construction over suit property.

3] Appellant No.1 has filed say to application at Exh.No.17. He has denied contentions mentioned in application. He has stated that he has not carried out new construction in City Survey No.324. He has merely carried out minor repairs to septic tank. Road is open in C.T.S.No.324. Lastly, he has prayed for dismissal of application.

4] On perusal proceeding, documents and photographs placed on record, it appears that

Respondent No.1 had filed R.C.S. No.26/2011 for partition and perpetual injunction against Appellant No.1 to 9 before Joint Civil Judge Junior Division, Alibag. On 09/02/2015, suit is decreed. He himself and Appellant No.1 to 8 are entitled for 1/3rd share in suit property. Appellant No.1 to 8 have been restrained from causing obstruction in using public road in C.T.S. No.324. Photographs shows that Appellant No.1 has carried out new construction in suit property. If he has carried out further construction, nature of property will be changed and irreparable loss will be caused to Respondent No.1. In such circumstances, I do not find substance in contentions raised by Appellant and his advocate. Hence, I proceed to pass following order.

ORDER

1. Application vide Exh.12 is allowed.
2. Appellant No.1 is hereby temporarily restrained from carrying out new construction over suit property till decision of Appeal.
3. No order as to costs.

Alibag,
Date :- 25/04/2019

(B.C.Kamble)
Ad hoc District Judge-1,
Raigad-Alibag.