

ORDER BELOW EXH.5 IN Spl. Civil Suit NO.91/2022

01] The present suit is filed for declaration, damages and injunction. The plaintiff appeared before the court and filed an application for temporary injunction. He submitted for ad-interim exparte injunction against the defendant-MIDC. In the present suit, plaintiff also moved an application under section 80(2) of the CPC, according to which notice was waived considering urgency in the matter.

02] Today Ld. Advocate for plaintiff prayed for ad- interim relief against defendant submitting that, in the year 1967, the defendant had acquired several landed properties belong to the local resident of village Tondare and other adjoining villages as per Government notification as mentioned in plaint. It is further stated by plaintiff that, suit plot bearing number 116/1 was also acquired by defendant in that acquisition proceeding and hence this suit is filed in respect of portion of said plot No.116/1, admeasuring area of 41967 meters. The plaintiff is still in possession of suit land. He has apprehension that he will be dispossessed by defendant without following due process of law. He also has apprehension that defendant will demolish certain ownership structure of plaintiff as defendant's officers and police personal attended the suit property and attempted to evict him. Hence, he prayed for ad-interim relief against defendant.

03] Perused record. Heard Ld. Advocate for plaintiff. I have also gone through written argument given on record. It

appears from the record that, the notice period of two months under section 80 of the Civil Procedure Code, was already waived. Hence, in view of consideration of waiver of notice under section 80(2) of the Civil Procedure Code, it is mandatory to give opportunity to the defendant; to file its say before passing any order in the suit. In such circumstances, it will be proper to issue notice to the defendant. Plaintiff is allowed for service of summons to defendant through special bailiff, if prayed with the shortest date.

Panvel

(A.A. Godse)

Dated : 21/03/2022 2nd Jt. Civil Judge, Sr. Dn., Panvel.