

**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 status-quo till disposal of application below Exh.5. In the present suit, this is third application moved by plaintiff for granting status quo.

02] Ld. Advocate for plaintiff submitted that, MIDC has delegated work over the suit property to the third person and he is constructing over there. According to plaintiff, as construction over the suit property was started, he moved an application for granting status quo atleast till disposal of Exh.5.

03] Ld. Advocate for plaintiff has taken this matter on record submitting his urgency that, construction work is started over the suit property by defendants. Hence, notice was issued and Ld. Advocate for MIDC appeared before the court and filed his reply. According to him, the construction was not started or the work was not handover before this application. Plaintiff had already submitted in his previous application also about handling over contract to some another person from Bharat Udyog. There is no any urgency for the status-quo as both parties are proceeding with the application below Exh.5 on every date as per the previous order of the court in status-quo application. In such circumstances this application was filed mischievously without doing compliance of Order I Rule 3 of the CPC. Even there is no change in circumstances after order dated 03/06/2022. In such

circumstances, in view of citations of Hon'ble Supreme Court in *Acqua Bore-well Private Limited V/s. Swayamprabha and others*, he submitted that, injunction order with respect to the suit property cannot be passed in detriment to the interest of third parties who are directly affected by it without impleading them or giving them an opportunity of being heard. According to defendant, admittedly contract regarding construction over suit property was already given to the third person. Hence, according to defendant injunction cannot be granted or even considered without hearing that person.

04] Heard both parties at length. Argument on Exh.5 is going on. Plaintiff has sumup with his argument and not matter is posted for argument of defendant. In such circumstances, no ground to grant status-quo at this stage. Hence, I pass the following order-

**ORDER**

1. Status-quo application is not considered.
2. As argument of plaintiff below Exh.5 is over, defendant is directed to proceed with the argument below Exh. 5 at the earliest without fail.

Panvel

( A.A. Godse)

Dated : 16/08/2022

2<sup>nd</sup> Jt. Civil Judge, Sr. Dn., Panvel.