

ORDER BELOW EXH.15.

The defendant has filed present application praying to dismiss the suit. He submitted that the plaintiff had filed present suit for perpetual injunction, however, at the time of filing suit the suit property belonged to the plaintiff, now the plaintiff sold the suit property to third person namely Bapu Narayan Limbhore & Dnyaneshvar Hanumant Aakhade (the plaintiff no.2 & 3) vide registered sale deed dated 10.12.2020 so that the plaintiff has no right in suit property. The defendant also submitted that for challenging that sale transaction in regard to the suit property he filed Special Civil Suit No.55/2021 against the above purchasers. As the plaintiff has no *locus standi* to continue the suit, the defendant prayed to dismiss the same. Hence the application.

2. The plaintiff opposed to present application by filing his say overleaf the application. He contended that the plaintiff filed present suit on 06.01.2020 and sold the suit property on 10.12.2020. At the time of filing the suit the plaintiff was owner of the suit property so that he has right to conduct the suit. The plaintiff also contended that the defendant raised illegal objection which is denied by him. The plaintiff prayed to reject the application.

3. Perused the application. Heard Ld. Advocates of respective parties. Learned Advocate Shri. Sajay Shaha for the defendant argued that as the plaintiff has already relinquished his right in the suit property vide sale deed, he cannot stand in place of the plaintiff, he cannot continue the suit. Hence Shri. Shaha prayed

to reject the suit. Per contra, learned Advocate Shri. R.B.Sawant for the plaintiff argued that the defendant has no right to file such application, though the plaintiff sold the suit property, its new purchasers are added in the suit as plaintiff no.2 & 3. Further as the suit is for injunction restraining the defendant from obstructing plaintiff's possession in the suit property, still right to sue survives and same cause of action also exists. Shri. Sawant also argued that as per Order 22 Rule 10 of the Code of Civil Procedure 1908 (for short the Code) in case of assignment, creation or devolution of any interest during the pendency of a suit, the suit can, by leave of the court, be continued by or against the person to or upon whom such interest has come or devolved. Hence learned Advocate Shri. R.B. Sawant prayed to reject the present application being meritless.

4. Though, during the pendency of suit, the plaintiff sold the suit property to the plaintiff no.2 & 3 and created their interest therein, only on that ground suit cannot be dismissed, rather, as per principle of devolution of interest during the pendency of suit contemplated in Order 22 Rule 10 of the Code suit can be continued. Transferees i.e the plaintiff no.2 & 3 are already impleaded as party in the suit who can continue the suit in place of the plaintiff. In short, the suit can be continued through new purchasers, it cannot be dismissed. Hence following order is passed.

ORDER

Application stands dismissed.

Date :- 30.04.2026.

(S.V.Khaire)

Place :- Roha.

Civil Judge Junior Division,
Roha.