

ORDER BELOW EXH.224

Plaintiffs have filed present application for issuing status quo order against defendant no.46 to 50 to maintain status of the property bearing Gat no.8, Old Survey No.145/1(17/1/B) admeasuring 1-60-20 HR (hereinafter for short referred to as 'suit property') as it is. They submitted that in present case there are 72 defendants, out of whom some are yet to be served by summons, who are served have not filed their written statement on record and by taking disadvantage of this fact defendant no.46 to 50 have started illegal RCC construction of house in agricultural land of suit property. They have brought construction material on the suit property and they are intending to make construction forcefully thereon. Suit property is agricultural property and defendants have not taken any permission of construction or converting land into non-agricultural. That construction is illegal and against provision of revenue laws. If defendants made construction, nature of the suit will change and plaintiffs have to face irreparable loss. Hence, plaintiffs prayed to direct the defendants to maintain status quo till hearing of application for temporary injunction filed at Exh.05.

2. The defendant no.46 & 51 opposed to present application by filing their say at Exh.229. The defendant no.46 & 51 contended that in consolidation scheme executed in year 1983 the then Assistant Consolidation Officer by going to exact spot made measurement and by recording necessary statements and making Akarphod Patrak recorded name of Bhaskar Narayan More predecessor-in-interest of the defendant no.46 & 51 to the suit property. Plaintiffs contended that Akarphod Patrak is wrong, however plaintiffs have no right to seek such reliefs before this court.

Plaintiffs cannot challenge consolidation scheme before this court, rather they have to file appeal before Dy-Director land Record Office Mumbai and District Land Record Office Alibag. Therefore, there is bar to try this suit before this Civil Court under Order 7 Rule 11 of the Code of Civil Procedure 1908. Number of registered sale deeds of suit property are executed which are not challenged by plaintiffs and still in force. Defendants are owners of the suit property. Present suit is filed after 42 years so that it is time barred. The defendant no.46 & 51 also contended that out of the suit property Bhaskar sold 30 R area to his son Sudhakar on 10.05.2012 vide registered sale deed no.1533/2012, that sale deed is also in force. Prior to that sale transaction, Sudhakar had constructed house in the suit property which is recorded at Grampanchayat record as property no.429 and now this house is in name of defendant no.46 Nikita. Plaintiffs have not informed this fact to the court so that they have not come with clean hands. As that house no.429 is in a state of disrepair, on 25.11.2025 defendants have filed application for getting construction permission from Grampanchayat, but they have not replied anything despite completed 60 days and therefore on 26.01.2026 defendants started construction by deeming as permission is granted. They have repaired house only, they have title and ownership of the suit property and house situated therein, rather plaintiffs have no prima facie case. Hence, they prayed to reject the application.

3. Heard Learned Advocates of respective parties. Learned Advocate Shri. S. N. Sanap for plaintiffs argued that revenue entries do not confer or extinguish title over the property, therefore defendants cannot claim their title solely based on their name being inserted in revenue record on basis of wrong entries made in

consolidation scheme. Shri. Sanap also argued that sale deeds and mutation entries alongwith old 7X12 extract produced by plaintiffs on record shows title of plaintiffs and defendant no.1 to 11's ancestor over the suit property, due to error made by consolidation officer name of defendant's forefathers is recorded against provision of law. Plaintiffs have prima facie case and, in such circumstances, if defendants succeeded to complete construction on the suit property they will have to face irreparable loss. Hence Learned Advocate Shri. Sanap prayed to grant present application to prevent them.

4. Per contra, Learned Advocate Shri. S. P. Sanap for defendants argued that name of defendant's predecessor in interest is mutated to the suit property on basis of entries made in consolidation scheme effected in year 1983 and since then defendants and their predecessor have been possessing the suit property. Until contrary proved, entries made in consolidation scheme should be presumed as genuine since it has presumptive value. Plaintiffs came belatedly before the court after 42 years and cannot disturb possession of defendants in suit property, Hence Shri. S. P. Sanap prayed to reject application.

5. It is case of plaintiffs that $\frac{1}{2}$ share of the suit properties was purchased by their and defendant No.1 to 11's ancestor namely Harishchandra Damodar More in the year 1948 vide sale deed and plaintiff and defendant no.1 to 11 have inherited the same. They filed present suit for partition, declaration of their common title and perpetual injunction as well. In spite of ancestor of defendant no.46 to 50 namely Bhaskar Narayan More was not concerned with suit property, consolidation officer by breaking old survey number made separate gat numbers and his and other defendant's names are

recorded thereto against provision of law. Thus, consolidation officer had no right to record name of strangers to suit properties. On basis of those wrong consolidation entries, name of defendant no.12 to 72 are recorded to suit property and other properties described in para no.1 of the plaint, number of sale transaction are made by them in regard to properties. Hence, plaintiffs sought declaration of their common right in all those properties, declaration of illegality of sale deeds which are based on wrong consolidation entries and partition of their and defendant no.1 to 11's shares.

6. A status quo order can be granted by a court to maintain the existing state or affairs a property or dispute to prevent irreparable loss when plaintiffs demonstrate their prima facie case, immediate threat or harm and that the balance of convenience favours them. Plaintiffs attacked on wrong entries made by consolidation officer in consolidation scheme effected in year 1983. Learned Advocate Shri. S. N. Sanap for plaintiffs by drawing my attention towards sale deed, mutation entries, old 7 X 12 extracts and consolidation scheme extracts produced by plaintiffs at Exh.239/1 to 22 argued that it is clear that suit property is purchased by ancestor of plaintiffs and defendant no.1 to 11, however consolidation officer against provision of law made wrong entries and inserted name of strangers who are not at all concerned with properties. He also argued that plaintiffs came to know about this fact in year 2024 when they obtained relevant papers of properties. It is admitted fact that consolidation scheme was effected in the year 1983. Just because name of defendant's ancestors is recorded to properties in consolidation scheme does not automatically mean that the consolidation officer acted illegally. Consolidation proceedings

are carried out by a statutory authority, and their orders carry a presumption of validity unless overturned by a competent authority. Though plaintiffs have contention that consolidation officer have not acted legally, they must provide strict proof. Revenue record, especially those finalized after consolidation, carry a rebuttable presumption of truth. Unless fraud, lack of jurisdiction, or a clear procedural violation is established with strong evidence, the consolidation scheme should be presumed as valid. Further, though plaintiffs may have case of fraud, to establish fraud, plaintiffs have to prima facie prove an intent to deceive. A mere mistake or gross negligence is typically not enough to prove fraud.

7. Further, plaintiffs have sought relief of injunction restraining defendant no.12 to 69 from alienating the properties, they have not claimed their possession in those properties. They admitted mutation stood in defendant's names for last 41 years. Their plea of knowledge about that mutation just prior to filing the suit cannot be accepted as prima facie true unless they prove fraud or concealment preventing earlier discovery. Issue of limitation need not be considered at this stage since it is mixed question of law & fact, however, it prima facie appears that the plaintiffs have not come before the court vigilantly. Delay on their part can significantly affect their prima facie case, particularly when seeking urgent relief like a temporary injunction. A long delay suggests a lack of urgency or an implicit acceptance (acquiescence) of defendant's action over time.

8. Further, admitted long standing possession of defendants in suit property cannot be disturbed easily, when plaintiffs came before the court after considerable delay. Plaintiffs have also raised objection as to illegal construction made by defendants on suit

property without requisite permission, however, when plaintiffs failed to prove their prima facie case, when they failed to demonstrate a direct impact of construction of defendants on their legal rights, they cannot seek injunction against defendants to stop constructions. At the most, plaintiffs can make complaint about illegality of defendant's construction to sanctioning authority, without going there plaintiffs cannot seek relief before this court without proving their prima facie claim. Hence, I don't find prima facie case of plaintiffs. Injury which may be caused to the plaintiffs is not seen greater than those that may be caused to the defendants so that balance of convenience is also not in their favour. Resultantly, following order is passed.

ORDER

1. Application is rejected.
2. Cost in cause.

Date :- 02.02.2026.

Place :- Roha

(S.V.Khaire)

Civil Judge, Junior Division
Roha.