

MHRG140009032023



R.C.S. No. 126/2023

Order below Exh. 22

This is an application for status-quo in respect of the suit property S.No. 54 A situated at Kotnaka, Tal. Uran, Dist. Raigad. Plaintiff has preferred this application on the ground that defendants have appeared on last date. Defendants have not filed their written statement. The plaintiffs apprehend demolition of the suit property at the hands of defendant no. 4. Hence, this application.

2. Application came to be opposed on the ground that survey number mentioned in the suit is not owned by defendants no. 1 to 3. the application is not supported by the affidavit. The defendant no. 4 has claimed that the suit property is in dilapidated condition. Inspection report to that effect is produced along with written statement by defendant no. 4. Said report states that the building is in dilapidated condition. The plaintiff has not filed any evidence showing that the building is not in such condition. If the building is collapsed, it may cause danger to human lives also.

3. Perused record. Heard both sides in details. Learned advocate for the plaintiff has relied on the decision of the Hon'ble Supreme Court of India in Rajanibai Vs. Kamalabai reported in 1996 AIR 1946 wherein it has been held that 'under O. 39 R. 1 and 2 and Sec.

151 of the C.P.C. the court has got inherent powers to protect the rights of the parties pending the suit'.

4. Learned advocate for the defendant no. 4 has submitted that building is in dilapidated condition. He has relied on the report of engineer to that effect. Learned advocate for defendants no. 1 to 3 has relied on the letters dated 21.02.2022 and 02.10.2022 by the plaintiff no. 1 to them.

5. Perused the record. Plaintiff has claimed that defendants are trying to evict them from the suit property. Defendants have claimed that the building is in dangerous condition. It may collapse at any time. Admittedly, defendants no. 1 to 3 have not filed their w.s. I have perused letters issued by the plaintiff which itself shows that the building is in dilapidated condition. Moreover, learned advocate for defendant no. 4 has submitted that certain formalities are to be completed before demolition. Considering this aspect, it is seen that there is no urgency. Moreover, considering dilapidated condition of the building it will not be judicious to maintain status-quo in this rainy season. Hence, application is rejected.

Uran,
Date : 25.07.2023

(Vikas D. Bade)
Civil Judge, J.D., Uran