

ORDER BELOW EXH. 21 IN R.C.S.NO. 138/2019

This is an application preferred by the plaintiff through which he is seeking status quo order as to restrained defendant from alienating suit property or create third party interest therein till the conclusion of temporary injunction application at Exh. 17.

2. The Ld. Advocate Mr. M.S. Thali for plaintiff submitted that suit has been filed for partition, declaration and for perpetual injunction. The suit summons was served to the defendant and he appeared in the suit. The written statement and say on Exh. 5 is also filed by defendant. However, between the pandemic situation parties were unable to argued matter for temporary injunction. It is submitted that defendant by taking undue advantage the said situation and his name reflected in 7/12 extract was sold one of the suit property in favour of one Shri. Amar Malaram Gehlot on 29.07.2021.

3. It is submitted, despite of suit is pending and sub-judice in the court the transaction taken place would not adhere with the law and decree is binding upon purchaser according to the section 52 of Transfer of Property Act. He submitted, the conduct of the defendant sufficiently shows that he is not law abiding person and by taking undue advantage of 7/12 extract may sale out remaining suit properties or create any third party interest therein. Hence, plaintiff is in apprehension that, it will take some time to decide the application at Exh. 5, 17 and if meanwhile defendant succeed create third party interest will cause great hardship to the plaintiff.

4. In the other hand Ld. Advocate for defendant submitted that in spite of written statement and say on Exh. 5 has been filed by defendant on 03.11.2020 plaintiff was not press Exh. 5 which certainly goes to show that he is not interested in the suit field and was waived his right over the suit property. It is further argued that partition was taken place between the parties by way of agreement executed between them. The property which was sold by defendant was fallen in the share of defendant and the revenue authority i.e. Tahsildar and S.D.O. was affirmed right of defendant over the alleged property. Therefore being owner defendant had sold property in dispute as there is no status quo order against him. It is further argued that, defendant is ready to argued subject matter today itself. Hence, the status quo application is not maintainable and ought to be rejected.

5. Read application and say, perused the document filed of record. Heard both the Advocate at length.

6. At the outsets, the suit appears to be filed for partition, declaration and perpetual injunction. The plaintiff claims that he is the co-sharer of the suit property and sought his share therein. Undoubtedly Exh. 5 i.e. application is temporary injunction is pending and due to some change of circumstances plaintiff has filed another application i.e. at Exh 17. Perusal the say filed by defendant come across that defendant has sold one of the suit property i.e. survey no. 8 situated at Mouje Gavthan, Tal. Uran during pendency of the suit which prima facie shows his conduct.

7. Therefore, I am in the view that it would be appropriate to restrained defendant from alienating the suit property or create third party interest therein. Resultantly, I passed the following order.

-:- ORDER -:-

1. Status-quo granted.
2. Defendant is hereby directed not to alienate or to create third party interest in the suit property till next date.
3. The parties are directed to proceed both the application at Exh. 5 and 17 expeditiously on next date, failure to which passed appropriate order.

Date :- 08.09.2021
Place :- Uran.

(R. B. Pol)
Jt. Civil Judge Junior Division,
Uran.