

REGULAR CIVIL SUIT NO.04/2024

ORDER BELOW EXH.05

DATE : 12/01/2024.

1. This is an application filed by plaintiff to grant temporary injunction. The learned advocate for the plaintiff submitted that, the ad interim injunction is necessary to protect subject matter of the suit. As per the case of the plaintiff, the plaintiff and defendant Nos. 1 to 8 are sibling.

2. The suit property is ancestral property. The plaintiff and defendants have right over the suit property. Though the plaintiff is residing at Mumbai, he used to visit regularly to his home i.e. suit property. Defendant no.1 is not sole owner of suit property. Despite that, defendant no.1 started to repair the house without permission of the plaintiff and other defendants. He has not taken any permission from the Grampanchayat. Therefore, the present suit is instituted for the relief of injunction.

3. On perusal of the documents and considering the pleading of the plaintiff, it appears that, the plaintiff and defendants are sibling. The plaintiff and defendants have right over the suit property. It is not case of the plaintiff that the defendant is constructing any house or building. Defendant no.1 is repairing the suit property. The interest of

the defendant No.1 is also involved in the suit property. While granting the temporary injunction it is always necessary to heard other side. As per the order XXXIX Rule 3 of the Code of the Civil Procedure, ex-parte ad-interim order can be granted in case of urgency. The repairing the suit property apparently will not fatal to the case of plaintiff on the ground of delay. The plaintiff failed to show any urgency to grant ad-interim injunction. Considering the above circumstances, I am in the opinion that, issue ex-party ad-interim injunction would not be proper. Hence, I pass the following order.

ORDER

1. Issue show cause notice to the defendant No.1.
2. The service of special bailiff is allowed on payment of E.P. and S.B..

Place: Mandangad
Date: 12.01.2024

(M. A. Shinde)
Civil Judge, Junior Division
Mandangad.