



R.C.S.No.22/2024

Santan Fernandis Vs.

Digambar Chopdekar etc.

CNR NO.MHSI050001282024

ORDER BELOW EXH. 5

Heard the learned advocate for plaintiff Shri. A.R.Chavan. Read the plaint, application for temporary injunction at Exh. 5 and affidavit filed in support of the application. I have also perused the documents filed vide list at Exh.4. The plaintiff claims the relief of declaration, permanent injunction and mandatory injunction in respect of the suit land, suit house and the suit path. According to plaintiff, he is resided into the suit house i.e. Sagarthirth Grampanchayat House no.486 (old house No.47) included into schedule 'C'. The suit house is situated into Survey No.108 (old S.No.288) Hissa No.14. The plaintiff is accessing the suit path having measurement 2 meter in breadth and 67 meter in length. The said suit path is useful to plaintiff for reaching upto Asoli-Tank main road from the suit house. According to the plaintiff, he has no alternative road or path to reach upto the suit house. Plaintiff has easementary right by way of prescription and necessity over the suit path. He further pleaded that defendant Nos. 1 to 5 have no concern with the suit path. Plaintiff has purchased the land lying under the suit path by way registered sale deed on 13/06/1967 from deceased Ramchandra Govind Dalvi. According to plaintiff, defendant Nos. 1 to 5 are trying to block the suit path by scattering stones, soil, glasses, branches of horny bushes over the suit path. Perusal of the documents filed on the record prima facie reveals that name of the defendant Nos. 1 and 2 are appeared in the occupier column of 7/12 extract of S.No.108/14, 107/12, 107/13. The suit house is situated into S.No.108 Hissa No.14. Also, 7/12 extract of S.No. 108 Hissa No. 14 reveals that name of plaintiff is entered into other right column of the same. Photos produced on the record shows the alleged obstruction over the suit path. However, the 7/12 extract of the S.No. 108 Hissa No. 14 produced on the record prima facie reveals that defendant Nos. 1 to 5 have also an equal right and interest into the suit land and suit path. Therefore, the prayer of the plaintiff can be considered after the appearance of defendant Nos. 1 to 5.

There is no exceptional and compelling case justifying the granting the ex-parte ad-interim injunction. It is just and proper to hear defendant No. 1 to 5 before deciding the application at Exh.5. I, therefore, pass the following order-

ORDER

1.	Issue show cause notices to defendant Nos. 1 to 5 that why injunction prayed by plaintiff should not be granted r/o. 18/04/2024.
2.	Special bailiff is allowed, if prayed.

(Dictated and pronounced in open court)

Vengurla.

(K.K.Patil)

Date : 05/04/2024.

Civil Judge, Jr.Dn., Vengurla.