

**Order below Exh.36 in R.C.S. No.113/2017**

The plaintiff has filed a present application for ad-interim injunction against defendant Nos.1,2 and 4 for restraining them from making any sort of construction in place of suit house till the final disposal of suit.

02. The plaintiff submitted that present suit has been filed against deft. Nos.1 to 4 and 5a to 5d for permanent injunction against them. Exh.5 application was filed against them. Defendant No.3 only appeared and filed his say at exh.26. Defendant Nos.1, 2 and 4 inspite of service of suit summons and notice didn't appeared so the incharge Court made status-quo order against them inspite of it defendant nos.1, 2 and 4 in collusion forcefully and hurriedly started construction in place of suit house. When the plaintiff told them that the Court has passed status quo order against them and they should not construct at that time they have abused him. Plaintiff avers that if the construction is carried out and completed then exh.5 application as well as suit will become infructuous and he will suffer irreparable loss which cannot be compensated in terms of money. Therefore, he prayed that ad-interim injunction as prayed be granted against the defendant Nos.1,2 and 4.

03. The plaintiff has filed photographs, complaint given to Banda Police Station and notice given to the defendant nos.1,2 and 4 through advocate and postal acknowledgement receipt of the same in support of said application.

04. Perused the record defendant nos.1,2 and 4 have not appeared in spite of service of summons and notice. The incharge

Court on exh.22 application have passed status quo order against them. Now the plaintiff filed present application stating that the defendant nos.1, 2 and 4 hurriedly and forcefully started construction over the suit property in place of suit house. The documents filed by the plaintiff i.e. complaint and notice support the version of plaintiff. The subject matter of the present suit is subjudice Generally when the rights to immovable property are in dispute the status quo of the property cannot be allowed to altered. From the photographs it is also evident that construction is carried out, if the construction is completed by the defendant it will cause irreparable loss and grave injustice on the part of plaintiff and it will cause further complications as well as possibility of suit becoming infructuous cannot be ruled out. Thus, the plaintiff has made out prima-facie case against defendant nos. 1,2 and 4 in regard to the present application.

05. In view of above discussion as construction is being carried out there is alarm to the right of plaintiff if any delay is caused in granting the ad-interim injunction such delay shall defeat the purpose of granting the injunction and it will cause irreparable loss to the plaintiff. Therefore, in attaining circumstances plaintiff is entitled for ad-interim injunction. Though exparte order has been passed against the defendant nos. 1,2 and 4 them but this application is made on recent facts and conditions and different relief the interest of justice requires that the defendants should be informed about it and served with the notice of this order at application hence it is necessary to direct the plaintiff to serve the copy of this order and the instant application as well as documents filed today on record on the defendant Nos.1,2 and 4 to let them know the order passed by this Court. Hence, for the aforesaid discussion I pass following order

**: ORDER :**

1. Issue ad interim exparte temporary injunction restraining the defendant Nos.1,2 and 4 from making any sort of construction in place of the suit house till they appear and file their say on this application i.e. 20/02/18.
2. Plaintiff shall serve the copy of the present order along with the today's application as well as documents filed today on record on defendant Nos.1, 2 and 4.
3. Plaintiff shall file his own affidavit of compliance of service of instant order on the defendant Nos.1,2 and 4
4. Matter be fixed on 20/02/2018.

sd/-

(S.H.Panhale)

Date:- 15/02/2018

Jt.Civil Judge, Jr. Dn. Sawantwadi.