

Order below Exh. 5 in R.C.S. No.137 /2018

01. Read application and affidavit filed in support thereof. Perused the documents produced on record. Heard Ld. advocate Shri. Topale for the plaintiff. The plaintiff is seeking relief of ad interim injunction against defendants No. 1 to 4 not to disturb his possession over the suit property and use of place of Mangar and to remove the compound made to the suit property as well as not to create any encumbrance, transfer or sale the suit property.

02. City survey No. 63, Hissa No.11 and Mangar over it situated at Tambul, Taluka- Sawantwadi is the subject matter of the present suit (hereinafter referred as a suit property for the sake of brevity.) The plaintiff avers that since ancestral time above 50 years the suit property is in the possession of him as tenant and he is taking income from various trees planted in it. He has also constructed Mangar over it to keep wooden material. The plaintiff have land situated near to the suit property and there is house No. 12 in it and there is way from it which is used from ancestral time. As per Maharashtra Land Revenue Code Rule No. 31 the entry of Mangar was made to the 7x12 record of the suit property. In the year 29/10/2014 the defendants illegally made compound of cable to the suit property without permission of plaintiff and took the possession of plaintiff and closed the way to Mangar also. The defendants are obstructing the plaintiff and when on 18/11/2018 the plaintiff when asked about it at that time defendants threatened him that he have no any right over the suit property and demolish the mangar and defendant No. 1 and 2 also beated plaintiffs son. Therefore, plaintiff was constrained to file the suit. plaintiff avers that if defendants are not restrained then he will suffer irreparable loss which will not be compensated in the terms of money. Therefore, he prayed that ad interim

injunction may be granted and defendants be restrained.

03. Plaintiff in support of application has relied upon 7x12 extract of the year 1998-99 (Exh.7), and the recent 7x12 extract (Exh.6) and mainly on the order of Talathi (Exh.4/5) and certain photographs (Exh.4/9). The plaintiff in the suit itself avered that on 29/10/2014 defendants have taken his possession but he filed suit today after four years. No doubt the old 7x12 extract shows plaintiff's name but the recent 7x12 extract of the suit property (Exh.6) at column 12 doesn't show plaintiff name rather it shows defendants name. Therefore, their rights and interest are also prima facie involved. Therefore, considering all above fact I found it necessary to hear the defendant Nos. 1 to 4. After considering application, documents, record and submission I do not find that purpose of T.I. would defeat due to period for service of notice. Before passing any order it is necessary to hear them on this application. Resultantly following order is passed.

ORDER

1. Issue show cause notice to the defendant Nos. 1 to 4 as to why an interim temporary injunction should not be granted against him as prayed.

R/o. 28.11.2018.

2. E.P and S.B allowed if necessary.

Date:- 21/11/2018.

Sd/-xx
(S.H.Panhale)
Jt. Civil Judge, Jr. Dn. Sawantwadi.

