



Regular Civil Suit No. 08 of 2024

Order Below EXH. 05

Plaintiff has filed the present application for temporary injunction against Defendant No. 1. Briefly it is the case of Plaintiff that, suit property was owned by the father of Plaintiff and Defendant late Atmaram Baburao Korgaonkar. After his demise the suit property devolved upon the Plaintiff, Defendants and their mother Premavati Atmaram Korgaonkar. Premavati died on 20 June, 2022 and thereafter the Plaintiff and Defendants has $\frac{1}{4}$ th share each in the suit property being their joint property. It is contended that, the Defendant No. 1 is trying to construct house in the suit property. He has already collected necessary construction material and started digging for construction. Considering the nature of property and location of the property, if Defendant No. 1 proceeds with the construction, it would result into irreparable loss to the Plaintiff as the property is not yet partitioned. Hence, on 09.02.2014 Plaintiff tried to convenience the Defendant No. 1 to stop the construction. However, he denied and threatened the Plaintiff. Hence, he has filed the present suit for declaration and injunction.

02. On perusal of 7/12 extract, suit property appears to be jointly owned and possessed by Plaintiff and Defendant. The Photographs shows the pits duggs in the property. From the said photographs it prima facie appears that, the said pits are duggs for construction. The Plaintiff filed his affidavit on record at **EXH-10** stating that the photographs are in respect of currant position in the suit property. It appears that, the Plaintiff has promptly trying to stop Defendant No. 1 and thereafter without any undue delay appeared before the Court for the relief. Considering the entire material on

record, if the Defendant proceeds with the construction then it may resulted in to causing irreparable loss and hardship to the Plaintiff. Hence, it would be appropriate to direct all the parties maintain status quo in the suit property till the appearance of Defendant No. 1 in the present suit. Accordingly, I proceed to pass the following :-

-::ORDER::-

1. The Plaintiff and Defendant No. 1 are directed to maintain status quo in the suit property i.e. should not make any construction above the pits which are dug in the suit property and to keep the status of the property in the position as it is today till the Defendant No. 1 appears in the present suit.
2. The Plaintiff is hereby directed to comply with the provisions of Order XXXIX Rule – 3 of the Code of Civil Procedure.
3. EP and SB allowed if required.



(Y.P. Bavkar)

Civil Judge (Junior Division),
Dodamarg.

Place : Dodamarg.
Date : 17/02/2024.