

**Order passed below application dated 06.01.2021 in Daily Nond
No. 81/2021 seeking waiver of notice under sec. 80(1) of C.P.C.**
(Shrikant Patil, etc. V/s. Subhash Kanase, etc.)

This application is filed by the plaintiffs under section 80(2) of the Code of Civil Procedure requesting the leave of this Court to institute the present suit without serving any notice contemplated under section 80(1) of the Code. Plaintiffs stated that suit properties belong to plaintiffs. There was no road in existence from the suit properties. However, defendant Nos. 1, 2 have applied to defendant No. 10 Tahasildar Walwa for road from all suit properties and other properties bearing Road Case No. 18/2018 and said application is allowed on 29.10.2020. Said decision of defendant No. 10 is illegal and without following due process of law. On the basis of said decision, defendants are about to prepare the road from the suit properties. Plaintiffs are having sugarcane crop in the suit properties. If the road is prepared, then the plaintiffs will suffer irreparable loss. Therefore, plaintiffs intend to seek certain urgent reliefs and hence this application.

2. Ld. A.G.P. filed say and submitted that, no sufficient reason is mentioned to waive the notice. Hence the application may be rejected.

3. Heard Ld. advocate for the plaintiffs and Ld. A.G.P.

4. The plaintiffs state and submit that, defendants have threatened to prepare the road as per order of defendant No. 10. If plaintiffs issued notice and awaited till statutory period, till then defendants will create the road and there will be damage to the sugarcane crop and consequently plaintiffs will suffer irreparable loss. So the

plaintiffs are seeking perpetual injunction. Defendant Nos. 10 and 11 are the Government Authorities representing the Government of Maharashtra. The plaintiffs have also filed an application for grant of temporary injunction.

5. While considering this application, this Court has to see whether the plaintiffs are seeking any urgent relief and whether there is any urgency. That aspect has been aptly demonstrated by the present plaintiffs. The objections raised by Ld. A.G.P. are not complete enough so as to deny such leave of the Court under section 80 of the Code. For now I do find that there are good grounds to grant permission to present plaintiffs to file the present suit without issuing notice to defendant Nos. 10 and 11, who are representing the State Government. Hence the order follows,

ORDER

1. Application is allowed.
2. Plaintiffs are granted leave to institute the present suit without serving any notice on defendant Nos. 10 and 11, as required under section 80(1) of the Code of Civil Procedure.

Islampur
Date:12.01.2021

(Abhijit R. Solapure)
Civil Judge Senior Division,
Islampur

CERTIFICATE

I affirm that the contents of this P.D.F. file are same word for word as per original.

Name of Steno : S.P.Patil, Stenographer Grade-II,
Name of Court : Civil Judge Senior Division, Islampur,

Declared on : 12.01.2021
Signed on : 12.01.2021 (Registered on 13.01.2021)
Uploaded on : 15.01.2021