

ORDER BELOW EXH.6 IN R.C.S.NO. 44/2021**(Dinkar Babar etc.3 Vs. Subhash Babar etc.1)****(CNR : MHSN05-000253-2021)**

1. By this application plaintiffs are praying for ex-parte ad interim injunction against defendants restraining them from causing obstruction to their right to way over suit property 'B' and carrying out construction in the suit property 'B'.

2. Perused record. Heard learned advocate for plaintiff Mr. F. R. Magdum at length.

3. Suit property 'A' belongs to plaintiffs as well defendants. Suit property 'B' is the road/way. According to plaintiff the suit property 'B' i.e. road/way is situated in between the suit property 'A' and another property bearing Gat no.2654. The said road/way has been in existence since long and used not only by the plaintiff and defendants but also by other adjacent owners etc. The defendants who are at the north side of plaintiff has started RCC construction out of which around 03 columns have been taken in the road which causes obstruction to the right of way of not only plaintiffs but also other adjacent owners.

4. Perused all the documents produced on record especially recent photographs and panchanama prepared by the Circle Officer, Kameri dated 13.01.2021 and report submitted by him to the Tahsildar, Islampur dated 14.01.2021. The panchanama, report and photographs clearly shows that defendants by encroaching upon the common road has taken/dig out 03 columns for the purpose of construction of house. The said construction especially aforesaid 03 columns prima facie appears to be dug out on the common road. Thus prima facie there is substance in

the submission that if the ex-parte injunction is not granted against the defendants, they may encroach upon the suit property 'B' which ultimately cause prejudice to the plaintiff's right to way. Considering the facts and circumstances an act of digging/taking columns at common road (suit property 'B') of defendants needs to be restrained by way of ex-parte injunction. Hence I pass following order;

O R D E R

1. Issue ex-parte ad-interim injunction order restraining the defendants from carrying out further construction over the suit property', returnable on 22.01.2021.
- ii. Issue show cause notice to the defendants as to why the ad-interim ex-parte injunction granted shall not be confirmed.
- iii. E.P. and S.B. allowed.
- iv. Plaintiff to comply the provisions of Order 39 Rule 3 of Code of Civil Procedure.

Dated : 19.01.2021

(Kailas K. Kurandale)
6th Jt. Civil Judge (J.D.) Islampur.

- : C E R T I F I C A T E : -

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

Name of Stenographer :- J. S. Ghabak.(Steno Grade-3)

Court Name :- Shri. K.K.Kurandale,
6th Jt. Civil Judge (J.D.) and
J.M.F.C., Islampur

Date of decision :- **19.01.2021**

Order signed by PO. on :- **19.01.2021**

Order uploaded on :- **19.01.2021**