

ORDER BELOW EXH.5 IN REG. CIVIL SUIT NO.258/2024
(Sou. Sita Sudamalli Vs. State of Maharashtra etc.)
[CNR No.MHSN050016782024]

Read the application along with affidavit filed of the one of the plaintiff. Heard Ld. Advocate.

Plaintiff filed present suit to restrain defendants from constructing sewage line towards western side of the existing road which is western sideward boundary of the property owned by these plaintiffs. However for reason known to the authority only, they have started to construct sewage line on the road side. It makes the road narrower. There is every possibility that such construction would compel to laid road from the plaintiffs property and it would cause prejudice. With this submission plaintiff prayed for exparte injunction.

The present suit is filed against state wherein notice under section 80 of the C.P.C. is waived. At present the document produce on record clearly indicate that alleged construction is towards western side of the Islampur Kameri road and plaintiff having fear in their mind that such construction would resulting into encroachment by said road in their property. At this juncture, it would not proper to make any comment on the act, action and intention of the state. Already mentioned above that mandatory notice under section 80 is waived. Therefore in such circumstance an opportunity must be given to state to appear and submit their say. It would not proper to pass any order against state, unless giving opportunity to hear. Hence following order :-

ORDER

1. Issue show cause against defendant No.1 and 2 as to why injunction should not be granted against them, as prayed by the plaintiff No.1 to 5, **returnable on 17/05/2024.**
2. E.P. & S.B. allowed as sought, on depositing requisite fees, on availability.

Islampur.
Date: 10/05/2024

(Mukul M. Chitale)
Jt. Civil Judge, Senior Division, Islampur.