

Order below Exh. 119 in Regular Civil Suit No. 426/2013

(Manisha Gurav V/s Uttam Gurav etc. 3)

1. Present application is made by plaintiff praying for police protection in order to prevent further breach of order of temporary injunction passed against defendant no. 2.

2. The defendant no. 2's say was called for. The defendant no. 2 has failed to appear in spite of knowledge of present suit. Therefore, No Say order was passed against defendant no.2.

3. I have heard the Advocate for plaintiff. According to him the defendant no. 2, who has been restrained from carrying out any further construction on suit property 'B' has started construction and is committing breach of the order. In spite of knowledge of the present suit and the order of temporary injunction, and instead of appearing in the Court and filing say to the present application, the defendant no. 2 has resumed construction on the suit property 'B' in breach of order of temporary injunction passed against defendant no.2. Therefore, he prayed that, in order to prevent breach of the order, police protection be given to plaintiff to prevent the breach of order.

4. This Court had initially vide order below Exh. 102, passed order to maintain status quo as to construction by defendant no.2 on suit property 'B'. Thereafter, after hearing both the parties,

vide order below Exh. 96, the defendant no.2, was temporarily restrained from making any further construction on suit property 'B' till conclusion of the suit. According to the plaintiff inspite of order of temporary injunction the defendant no.2 has started construction, therefore, the plaintiff had on 14.09.2020, by written complaint, intimated the police Inspector of Ashta Police Station, but the police has not taken any cognizance to stop the construction of the defendant quoting that, it is a civil dispute. Therefore, the plaintiff is praying that police protection be granted so as to prevent the further breach of order of injunction against the defendant no.2.

5. I have perused the documents filed by the plaintiff today alongwith Exh. 122, those are photographs of the construction carried out by the defendant no.2. The stage of the construction in these photographs and those relied upon at the time of order below Exh. 102 prima facie show that the defendant no. 2 has continued construction inspite of temporary injunction order against the defendant no.2. The plaintiff's Advocate also submitted that he has filed a separate application under Order 39 Rule 2-A of the Code of Civil Procedure for taking action against defendant no. 2 for breach of temporary injunction order, but till that the time, it is necessary to prevent further breach of the order, and hence, he is praying that police protection be granted. The photographs on record clearly show that the defendant no.2 has carried out further construction and therefore, in order to prevent further breach of injunction order,

it is necessary that plaintiff be granted police aid/protection for prevention of breach of the injunction order by stopping the construction of the defendant no. 2. Hence, I proceed to pass following order :-

ORDER

1. Application is allowed
2. The Police Inspector of Ashta Police Station is directed to provide police protection to the plaintiff in order to prevent /stop further construction by defendant no.2 on suit property 'B'.
3. Plaintiff to bear the expenses for the same.

Islampur.
Date:- 14.10.2020

(N.D.Jadhav)
3rd Jt. Civil Judge Jr. Dn., Islampur.

CERTIFICATE

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

Name of the Stenographer	:	Smt. S.S. Kamble,
Court Name	:	3 rd Jt. C.J.J.D. & J.M.F.C., Islampur.
Date of Order/Judgment	:	14.10.2020
Signed by P.O. on	:	14.10.2020
Uploaded on	:	14.10.2020