

Order below Exh.5 in RCS 202/2022
Bhushankumar Dindwar Vs Annapa Pawar and Ors
(CNR-MHSN08-001272-2022)

The interim injunction application is under Order 39 Rules 1 and 2 of the Code of Civil Procedure, 1908 (the C.P.C).

2 Perused the application, and the record.

3 Heard.

4 Perused the application, say, and the record.

5 The suit is for a declaratory decree of being owner and restraining the defendants 1 to 7 from obstructing the plaintiff's possession. The suit property is more particularly mentioned in para 1 of the plaint. The suit property was purchased by the plaintiff from defendants 1 and 2 vide registered sale deed 3620/2009 Dt.24/09/2009 and accordingly possesses the suit property. The plaintiff has obtained electricity connection and boar and possessing the suit property, accordingly. The defendants are obstructing the plaintiff's possession from Dt.01/11/2021. The name of the plaintiffs has been mutated on the revenue record. The defendants have no concern with the suit property. Hence, the present application.

6 Brief contentions of contesting defendant 7:- The ws cum say is below Exh.36. The application has been opposed on various counts. It has been contended that the suit is barred by limitation for seeking declaration after 13 years. The description of the suit properties is denied and disputed the four boudaries are false. The plaintiff has got executed the sale deed without possession. Defendant 7 has purchased the suit property vide registered sale deed 488/2004 Dt.04/03/2004 from defendant 2 and the northern side 1 H area, is possessed by the defendant 7. The plaintiff is about to garb the property of defendant 7. The suit property is owned by defendants 1 and 2 out which an area 2 H 61 R has been sold to Revappa Karkal and Mahadev Karkal. The defendant has purchased the northern side 1 H area from the defendants 1 to 2 in 2004. The sale deed was registered. The possession was delivered to defendant 7. Defendant 7 started cultivating the same as the absolute owner. The ME 9852 was

certified. The said ME has been cancelled. Defendant 7 has filed RTS appeal 288/2018. The appeal was allowed and it was remained to Tahsil for trial. The same on re-hearing. The ME 9852 and 8962 has been certified. The ME 11400 and 11927 of the plaintiff has been cancelled. The order is Dt.14/05/2018. The sale deed of defendant 7 is 2009 and that of the plaintiff of 2022. Hence, the claim has been denied and disputed.

7 The plaintiff has filed the following documents viz.,

Sr.No	Particulars of the documents
1	VF No.8A
2	VF No.7 and 12
3	ME 10927
4	Sale deed
5	VF No.7 and 12
6	Electricity bill of June 2022
7	Pavati
8	Alpabhudharak Pavati
9	Form No.8A
10	VF No.7 and 12
11	Form No.8
12	VF No.7 and 12
13	Form No.8A
14	VF No.7 and 12

8 The defendants have relied upon the following documents.

Sr.No	Particulars of the documents
1	VF No.8A
2	VF No.7 and 12
3	Sale deed

4	Intimation order in RTS appeal 288/2013
5	Order RTS appeal 14/2018

9 The following points arose for my determination, to which I record my findings together with the reasons thereof:-

Sr.No	Points for determination	Findings
1	Does the plaintiff proves prima-facie case in his favor?	No
2	Does the plaintiff proves balance of convenience tilts in his favor?	No
3	Does the plaintiff proves he would suffer irreparable loss, if interim injunction is refused?	No
4	What order?	As per the final order.

Reasons

Points 1 to 3

10 It is sine qua non for the grant of an interim relief, which is an equitable relief that the plaintiff, should prima-facie, prove the above points for determination.

11 It is trite law that prima-facie, does not mean prima-facie, title or the case proved to the hilt.

12 It is settled law that grant of equitable relief is a matter of judicial discretion, and the plaintiff, should approach the Court with clean hands.

13 The interim injunction application has to be decided considering the principles of Ex debito justitiae.

14 The pleadings and the material on the record has to be judically scanned.

15 While the plaintiff case is based on the registered sale deed by defendants 1 and 2 of which a copy has been produced on record below Exh.3/Sr.No.5. On prima-facie, perusal of the record, the execution of

the sale deed in favor of the plaintiff is an admitted fact. There is no mention of cancellation of the ME of the plaintiff by the revenue authority, in the pleadings. Despite the fact, that defendant 7 came with a heavy contention that the ME 11400 and 11927 has been cancelled vide order Dt.14/05/2018, the plaintiff has not filed or countered the same. A copy of the order in RTS appeal 14/2018 Dt.14/05/2018 has been filed on the record on 17/06/2023. Prima-facie, a fact is clear that in the said proceedings plaintiff 1 was non applicant 1 therein. The instant suit has been filed on or about 30/08/2022. In the pleadings there is no reference of the RTS proceedings or the cancellation of the ME of the plaintiff and the confirmation of the ME of defendant 7. Therefore, the plaintiff has suppressed material facts and has not approached with clean hands and not entitled to equitable relief.

16 For the above reasons, the plaintiff fails to prove prima-facie case in his favor. Therefore, the balance of convenience does not tilt in his favor. Therefore, no irreparable loss/harm/prejudice would ensue to the plaintiffs, if interim injunction is refused. The comparative mischief that would be caused to the defendants would be more, if interim injunction is allowed. Accordingly, the points for determination are answered. Costs follows the event. Hence, the following Order

The application stands rejected.

2 Costs in the cause.

Jath
Date:08/08/2025

(Sanjay P.Bunde)
Jt.C.J.J.D, Jath