

Order Below Exh. 05 IN R.C.S. No. 53/2023

(Suresh Rau Dhumake V/s. Yashoda Tanaji Dhumake)

(CNR NO. MHSN12000423-2023)

Present application filed by plaintiff Under Order 39 Rule 1 and 2 of CPC. R/w. Section 51 of CPC claiming to restrained the defendants from creating third party interest by selling, executing any deed having the effect of transfer. Moreover, restrain them from carrying out construction in the suit property.

2. The defendant though served through summons failed to file written statement. Hence, case proceed No W. S. against them.

3. After considering the contents of application following points arise for my determination along with my findings thereon.

<u>Sr. No.</u>	<u>Points</u>	<u>Findings</u>
1.	Whether the plaintiff prove that she is having prima-facie case ?	<u><i>In the affirmative</i></u>
2.	Whether the plaintiff prove that balance of convenience lies in her favour ?	<u><i>In the affirmative</i></u>
3.	Whether the plaintiff prove that she will suffer irreparable loss if the injunction is not granted ?	<u><i>In the affirmative</i></u>
4.	What Order ?	<u>Application is allowed .</u>

REASON

AS TO POINT NO. 1 TO 3:-

4. Perused the record. Present suit is filed for partition of suit property with perpetual injunction. Plaintiffs filed copy of 7/12 extract of suit property. It shows that suit property is in the

name of defendants. Therefore, there is every possibility that they will alienate and change the nature of suit property. The present application is supported by affidavit of plaintiff. The defendants though served with summons but failed to file written statement. Ample opportunity was given to them. But they failed to contest the suit. Hence, it appears that, they have lost the interest to contest the application.

5. After detail discussion supra I am of the view that, the status-quo order with regard of claim contained in Exh. 5 already allowed. As the plaintiffs proved prima facie case and balance of convenience lies in their favour. Therefore, the question of irreparable loss is in favour of plaintiffs. Hence, I answer as to point no. 1 to 3 in the 'negative'. In answer point no. 4, I pass the following order.

<u>ORDER</u>	
1.	Application vide Exh. 5 is disposed of.
2.	Order passed below Exh. 27 is confirmed and continued till disposal of suit.
3.	Cost in main cause.
(Dictated and pronounced in open court)	

Palus.

Date -04/01/2025

(I. A. Y. A. Khan)

Jt.Civil Judge Jr.Dn., Palus

CERTIFICATE

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

Name of Stenographer	: Jyoti A. Salunkhe Stenographer Grade III
Court	: Jt. C.J.J.D. & J.M.F.C., Palus
Date	: 04/01/2025
Signed by P. O. on	: 04/01/2025
Uploaded on	: 06/01/2025