



C.N.R.NO. MHSN150009752024

R.C.S. NO. 188/2024
(Jagannath Kore Vs. Shivaji Nikam)

ORDER BELOW EXH.16 IN R.C.S.NO. 188/2024

1. Present application is filed on behalf of plaintiff for restraining defendants No.3 from creating road from the suit property. In response to suit summons and notice of the temporary injunction application, defendant appeared through his counsel and he sought time for filing say/written statement. Adjournment application for filing say/written statement is granted. Since date 11/11/2024 defendant and his counsel absent. Today also defendant and his counsel absent when called out till 05:00 pm. On 11/11/2024 plaintiff filed present application for status quo order. Opportunity was granted to defendant for filing say on same. Defendant failed to file say and argue on present application at Exh. 16. The plaintiff submitted that defendant has not filed say intentionally and on the other hand defendant trying to create road as per order of Tahsildar by causing damage to plaintiff's property. **Plaintiff** prayed for maintaining status of properties as it till the decision of temporary injunction status quo.

2. Heard learned counsel Shri. S.V. Kore on behalf of plaintiff. Defendant and his counsel absent though called out repeatedly. Perused the record.

3. It has been contended on behalf of plaintiff that suit property is joint property and they in possession of suit property jointly as per their own wishes. Land in Gat no. 582/2 and 582/4 was partitioned as per the order of the court in RCS 151/1976. As per the partition there was a separate road for the land in gat no. 582/2. That road is in use of defendant. There is asphalt road of Chinchani to Karve for land of defendant in gat no. 582/2. Defendant is using that Chinchani to Karve asphalt road for his land till today. In spite of this road defendant has filed a road case no. 4/2022 before Tahsildar and claimed right to way for his land in Gat no. 582/2 from the plaintiff's land in Gat no. 584 i.e. suit property. Tahsildar without following the due procedure and without considering the situation of suit property, ordered the road as per claim of defendant. Defendant on the basis of order of Tahsildar trying



C.N.R.NO. MHSN150009752024

R.C.S. NO. 188/2024
(Jagannath Kore Vs. Shivaji Nikam)

to create new road from the land of plaintiff. If she succeeds the purpose of the suit will be frustrated and complications would arise. Therefore plaintiff by way of present application prayed for maintaining status-quo of suit property.

4. Considering the pleading and documents filed by plaintiff the intrinsic issue of road is involved between plaintiff and defendant. Further according to plaintiff Tahsildar has not followed the due procedure while deciding the road case no. 4/2022. Defendant inspite of knowledge of present application failed to file say to present application though ample opportunity is given and not filed the say to the Exh.5 till today. It would take time to decide temporary injunction application on merit. The plaintiff is having apprehension of creating new road from suit property. Once if defendant succeeded to create road the plaintiff would suffer from loss of his land and it would be difficult to restore the situation as it is. Therefore if both the parties are directed to maintain status-quo in respect of the suit property no loss will be caused to either side otherwise complications would arise due to creation of new road. Hence, I pass following order.

ORDER

Defendant is directed to maintain status-quo in respect of the suit property till decision of temporary injunction

Sd/-

(Smt.A.B.Sontakke)

2nd Jt. Civil Judge Jr.Dn. &

Judicial Magistrate F.C. Vita.

Vita.

Date : 22/11/2024