

RCS NO.143/2024***(Mangal Bhimrao Mali V/s. Ayeshabi Isak Shikalgar & Ors.)*****ORDER BELOW APPLICATION EXH-12**

01. The case was not today's board. However on the application of plaintiff the suit is taken on today's board considering the emergency stated by the Ld.Advocate for plaintiff Shri.P.D.Bhosale. Heard Ld.Advocate Shri. P.D.Bhosale for the plaintiff. Perused the application Exh.5 as well as record. However, Ld.Advocate for the plaintiff submitted that the defendant no.1 is trying to create new road though the suit property under the garb of execution of the order of Ld.Tahasildar Vita dated 09.03.2023 passed in Road Case no.S.R/08/2022. The defendant no.1 is trying to create new road without filing application for execution of the order of Ld.Tahasildar. The defendant no.1 is interested to create new road without following due process of law. Ld.Advocate for plaintiff further submitted that if the new road is created during pendency of suit, the very purpose of suit as well as application for temporary injunction shall get frustrated. Hence, he submitted that the defendant no.1 be directed to maintain Status Quo in respect of suit property till the defendant no.1 files her say to the application Exh.5.

02. The perusal of the order of Ld.Tahasildar Vita dated 09.03.2023 passed in Road Case no.S.R/08/2022 shows that the Ld.Tahasildar has directed the removal of obstruction in already existing road in gat no.98 at Bhalawani. There is no direction for

creation of new road. The defendant no.1 has not filed any application for the execution of the order of Ld.Tahasildar for removal of alleged obstruction. The defendant no.1 has no right prima-facie to create new road by taking undue advantage of the order of Ld.Tahasildar. If the new road is created during pendency of suit and hearing of application for temporary injunction, the very purpose of suit as well as application for temporary injunction shall get frustrated. If new road is created through suit property, more complications shall arise. Hence, it is necessary to direct the maintenance of Status Quo in respect of suit property at least till filing of say by the defendant no.1 to application Exh.5. Accordingly, I proceed to pass the following order;

ORDER

- A.** The defendant no.1 Ayeshabi Isak Shikalgar is hereby ordered to maintain Status Quo in respect of suit property Gat no.98 situated at Bhalawani, Tal.Khanapur, Dist.Sangli which is more specifically described in para No.1 of the plaint as well as para No.1 of application Exh.5 till filing of her say to the application Exh.5.
- B.** The plaintiff is ordered to strictly comply the provision of Order 39 Rule 3 of CPC within 3 days from today.
- C.** Issue notice to defendant no.1.

Date: 20.07.2024

Place : Vita

(Rafeeqe A. Shaikh)

3rd Jt. Civil Judge Junior Division, Vita.
Tal.Khanapur, Dist.Sangli.