

ORDER BELOW EXH. 5 IN M.A.C.P. No. 19/2018

As I am passing this order just below and adjoining to this application itself, I need not reproduce its contents.

2. The present applicant Sindhu and Ashok have filed this claim petition for compensation of death of their predecessor in a motor accident. The present opponent Sunil and Sandip are respectively the driver and owner of the vehicle involved in the accident, which caused death of the predecessor of the applicants.

3. It is contended in this application Exh. 5 that, the respondent No. 1 owns agricultural land in block No. 58 and Kalewadi, Taluka Gevarai, District Beed and respondent No. 2 in agricultural block No. 44 at the same village Kalewadi.

4. It is averred by the present applicants that, if the present respondents/opponents are served with the notices of this claim, as the vehicle involved in the accident is not insured, to avoid the liability of the proposed payment of compensation, the respondents would dispose off their agricultural properties and in that case, it would be difficult, if not impossible, for the present claimants to recover the proposed amount of claim which is likely to be awarded in their favour in this proceeding.

5. Fear expressed in this application Exh. 5 is buttressed with an affidavit attached along with it. The claimant applicants have also attached 7/12 extracts of the respective agricultural lands

of the respondent opponent. *Prima facie* it appears that, both the respondent opponents own those respective agricultural lands mentioned in this application Exh. 5 which carry their names on the 7/12 extracts of those respective agricultural lands.

6. As like the agricultural lands, as above, even the motor vehicle i.e., Tata SHT bearing registration No. MH-23-W-276 involved in the accident, is reported to be owned and possessed by respondent opponent No. 2 Sandip Ramchandra Jogdand. Registration certificate bears his name. That vehicle is also required to be attached till further orders.

7. *Prima facie* the vehicle appears not to have been insured. Hence, in the background of these facts and circumstances, if the claimant applicants succeed to establish their claim and succeed to prove the case with which they are coming up, then, if as has been feared by them, the opponent respondents dispose of the agricultural lands standing in their respective names, certainly, it would be quite difficult for the applicants to recover the amount, if any, is awarded to them on merits.

8. Even otherwise, there is no harm to allow this application Exh. 5. Because, the respective agricultural lands shall remain in the names, under title and in possession and cultivation of both the respective respondents till further orders of this Court. The only restriction would be on the alienation of the respective agricultural lands standing in the names of the respondent opponents. Hence, no harm is likely to be caused to anyone of the respondent opponents, if this application is allowed.

9. On the other hand, if the properties are not attached and if they are disposed of, the claimants applicants are likely to suffer irreparable loss in every probability. If at all the claim fails and if at all the contentions in this application turn out to be false and frivolous, the respondent opponent shall be at liberty to take the appropriate legal course against the present claimant applicants, as this application Exh. 5 is supported with an affidavit. The claimant applicants in that case shall also be liable to be taken action against, for filing such false affidavit, if at all it turns out to be false. With this, I proceed to pass following order.

ORDER

1. This application Exh. 5 is hereby allowed.
2. Both the respondent opponents i.e., Sunil Manohar Chavan and Sandip Ramchandra Jogdand are hereby restrained from alienating the agricultural block numbers 58, 60 and 44 for their respective shares in it at Kalewadi, Tal. Gevarai, District Beed and are further restrained from creating any encumbrances on it henceforth, till further orders of this Court.
3. Any such sale purchase transaction, lease transaction, creation of any third party interest of any kind on these agricultural lands shall be hit by the principle of *lis pendence* and shall be treated as void.

4. The respondent opponent No. 2 i.e., Sandip Ramchandra Jogdand is hereby restrained from alienating the motor vehicle i.e., Tata SHT bearing registration No. MH-23-W-276 involved in the accident.
5. Any sale, purchase transaction, lease transaction, creation of any third party interest of any kind in respect of this motor vehicle shall be hit by the principle of *lis pendence* and shall be treated as void.
6. Copy of this order be served upon both the respondent opponents at the costs of the claimant applicants.

Sd/-...

Date : 10.12.2018.

(Chakor Shrikrishna Baviskar)
Assistant Sessions Judge, Pandharpur.

CERTIFICATE

I affirm that, the contents of this PDF file Order is same word to word as per the original Order.

- (a) Name of the Stenographer : Kore Mahesh Arjun
 - (b) Court : District Judge-3, Pandharpur
 - (c) Order signed by P.O. On : 10/12/2018
 - (d) Order uploaded on : 04/01/2019
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