

RCS No.13/2022
(Smt Nilabai Shinde & Ors.
Vs.Laxman Kasgavade & Ors.
I.A. No.2/2022

Order below Exh.16
(Passed on 14.01.2022.)

The plaintiffs have filed present application to grant status quo in respect of the suit property. It is their contention that, they have filed suit for perpetual injunction against the defendants along with application for temporary injunction. In the present suit defendants have appeared and filed application for granting time for filing their written statement and say to the application for temporary injunction. During the period of filing of the say by the defendants there is every possibility of causing obstruction to the possession of the plaintiffs at the hands of defendants and there is possibility of damaging the road of the plaintiffs and creating new road from the property of the plaintiffs. Therefore, plaintiffs prayed to allow the application.

2. Defendant No.1 has filed his say below Exh.18 and defendant No.2 and 3 have filed their say below Exh.19 and strongly opposed to the present application. They have denied the contents of application and submits that, the gat No.565 situated at village Bohali is divided into two divisions bearing Gat No.565/1 and 565/2 and thereafter, the said got number also divided into sub divisions. The plaintiffs are not sole owners of gat number 565/1/अ, 565/1/ब,. The other persons are also having their land in the said gat number. One Sanjya Kamlakar Shinde having his land admeasuring 74R in the said gat number. But, the plaintiffs have not given proper description of the suit property. There is road case bearing No.16/2020 is pending before the Tahasildar and in that proceedings the plaintiffs have appeared through their advocate and only to prolong the said proceedings the present suit and application for status quo is filed by the plaintiffs. In the present suit plaintiffs having no any prima facie case. There is no any balance of convenience lies in favour of plaintiffs. Therefore, defendant No.1 to 3 prayed to reject the application.

3. Considering the rival contentions of both the sides, so also I have gone through the documents filed on record. The 7/12 extract filed on record of the suit property goes to show that, the plaintiffs having possession over the suit property bearing Gat no.565/1/अ admeasuring 2H 35R, 565/1/ब admeasuring 1H 41R and 565/1/क admeasuring 81R land. The plaintiffs have come with the case that, in the suit property there is one road having 600 ft length and 10 ft width which is privet road of the plaintiffs and with the consent of plaintiffs defendants are using the said road. But, while using the said road the defendants are damaging the boundaries situated between the suit property and property of the defendants and also caused damage to the crops of plaintiffs. The defendants having alternate road to approaches their lands. But, without any just reasons defendants are unauthorizedly used the road owned by the plaintiffs. The defendants have denied the contents of plaintiffs. But, the document produced on record goes to show that, there is proceeding pending between the parties in respect of road situated in the suit property before the Tahasildar. Admittedly in the present suit defendants have not filed their say to the temporary injunction application filed below Exh.5. So also they have not filed their written statement in the present suit. To decide the temporary injunction application on merit, and to avoid the multiplicity of proceedings, I proceed to pass following order.

ORDER

- i. Application is partly allowed.
- ii. Defendants are directed to maintain status quo in respect of suit property till next date.

Date : 14.01.2022.

[A. P. Karad.]
Jt. C.J.J.D, Pandharpur.

Certificate

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

Name of Stenographer :- Rajiv M. Gogi.

Court :-Jt.Civil Judge (J.D.) Pandharpur

Date :- 14.01.2022

signed by
the presiding officer on. :- 14.01.2022