

ORDER BELOW EXH 42 IN R.C.S.NO. 55/2019
(CNR NO. MHSO07000065-2019)
(Chitra Vs. Bajrang)

01] This is an application filed by plaintiff for giving an amount Rs.2,72,881/- to her deposited in the court vide C.No.204/2019. That the said amount has been deposited by the Court Commissioner as per order dated 26.02.2019 passed on Exh.30. It is submitted therein that since the plaintiff is poor agriculturist the said deposited amount of sugarcane crop out of suit property needs to be handed over to her. It is, therefore, necessary to give the said amount of Rs.2,72,881/- deposited in the Court vide C.No.204/2019 to the plaintiff.

02] In reply scribed over the instant application by learned advocate for the defendants he has strongly objected it and submitted therein that the submissions made in the application are not true, legal and correct. He has further submitted that to pass appropriate order as per the calculation and share of plaintiff in the said bill amount.

03] Perused the instant application at Exh.42 and reply scribed over it. Heard learned advocates for both the sides at length.

04] The instant suit is for grant of permanent injunction against the defendants. As per the defence taken by the defendants in their written statement the suit property was allegedly a joint family property of plaintiff's husband, defendants, their father and sisters. That partition was effected between them and their father, brother and sister have relinquished their share in favour of defendant no.1. That accordingly he was cultivating his share and raising income therefrom. That in an accident took place in the year 1996 he lost his both legs and suffered permanent disablement. That since then he used to cultivate his share in

the suit property through plaintiffs husband and he used to give income of his share to him. That later on plaintiff used to avoid making payment of his share to the defendant no.1. That since the defendant no.1 informed Vitthal Sugar factory to deposit the sugarcane out of suit property in his name the plaintiff got annoyed. That their brother Mohan is pretending to have purchased share of their father, sisters out of suit property in the name of his wife. That since their father and sisters did not have any right and authority in the suit property and since the consent of sons, daughters and husbands of sisters were not obtained prior to execution of said sale deed plaintiff do not get any right in pursuance to the said sale deed. That in the said sale deed boundaries of suit property as given in the instant suit of western side and the area and cess is wrongly mentioned. That there is no mention in the sale deed as to which side of suit field is sold. In the suit western side field is mentioned. That the said sale deed is under challenge. That since their father, sisters have share alongwith them in the suit property it is their joint property and therefore the plaintiff cannot get any injunction order against the co-owners. That the plaintiff has also not proved a fact that the sellers were in desperate need of money to satisfy their family need and other basic needs.

05] It appears from record that after the alleged partition between the plaintiffs husband, defendants, their father and their sister the plaintiff has purchased .76 H.R. undivided and undescribed land out of 1.33 H.R. area of field Gat no.257 of Mauje Kharsoli from her husband, her father-in-law, her brother-in-law i.e. defendant no.2 and her sister-in-laws the said sale deed is under challenge.

06] The defendant no.2 who has sold his .19 R share in the suit property to the plaintiff as per the sale deed in question has filed his affidavit on

record wherein he has stated on oath that since he has voluntarily executed the said sale deed in favour of plaintiff and that he has no any objection to give amount of his share to the plaintiff from the said deposited amount in the Court. Similarly, plaintiffs sister-in-law Sou. Ranjana Uday Patil and her husband Shri. Mohan Tukaram Bhosale have also filed their affidavits on record at Exh.48 and Exh.57 respectively wherein they have specifically stated on oath that since they have voluntarily executed the sale deed of her share in the suit property in favour of plaintiff and that they have no any objection to give amounts of their share from the said deposited amount in the Court to the plaintiff as she had yielded the sugarcane crop over the suit property.

07] Considering all these aspects since the plaintiffs husband, her brother-in-law defendant no.2 and her sister-in-law Sou.Ranjana have share in the suit property and the sugarcane crop standing on their share in the suit property was also cut and deposited in the said Shri. Vitthal Sugar factory she is definitely entitled to the proportionate amount of their share of sugarcane deposited by the Court Commissioner in the said sugar factory as per the order passed by the Court out of the said deposited total amount of Rs.2,72,881/-. Therefore, the plaintiff is entitled to get an amount of the said .57 R land out of the said total amount of Rs.2,72,881/- deposited in the Court. As such, to decide the instant application final order is passed as follows:-

ORDER

1. The plaintiff is permitted to withdraw an amount of Rs.1,16,949/- (Rs. One Lakh Sixteen Thousand Nine Hundred Forty Nine only) of the consolidate area of .57 R (.19 R each of plaintiffs husband, her sister-in-law Sou. Ranjana and defendant no.2) out of said deposited amount of Rs.2,72,881/- in the Court by Court Commissioner, in the interest of justice subject to final decision of the instant suit.

2. The plaintiff should deposit the said amount in the Court as and when required by the Court.
3. The instant application is disposed of accordingly.

Date- 31.03.2021.

(P. P. Deshmukh)
Jt. Civil Judge Junior Division,
Pandharpur.

CERTIFICATE

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

Name of Stenographer : *A.K. Vibhute*

Court : *Jt.Civil Judge Junior Division
Pandharpur*

Date : *31.03.2021.*

*Order signed by the
Presiding Officer on* : *31.03.2021.*

Order uploaded on : *02.04.2021.*