

Order passed below Exh. 58 in R.C.S. No. 55/2019

(CNR NO. MHSO07-000065-2019)

I.A.No.06/2022

01] This is an application filed by the plaintiff for withdrawal of amount of Rs. 89,102/- deposited in the court by the court commissioner as per the order passed below Exh. 50. It is the contention of plaintiff that, she is poor agriculturist and deposited amount is sugarcane crop be out of the suit property. Therefore, she prayed to allow the application.

02] Defendant no. 1 by filing his say has strongly opposed present application and denied the contents of application. It is submitted by the defendant no. 1 that, plaintiff having no right to withdraw the amount deposited by the court commissioner and she is not entitled for entire amount. Hence, he prayed to reject the application.

03] Considering the rival contention of both sides, So also, I have gone through the record of case in hand, from it appears that, as per the order passed below Exh. 50 this court has granted permission to the court commissioner for depositing the amount of Rs. 89,102/- as a bill of sugarcane crop issued by sugar factory. I have also perused the order passed by my learned predecessor below Exh. 42 dated 21.03.2021 as per the said order plaintiff has withdrawn the amount of Rs. 1,16,949/- as deposited by the court commissioner. Admittedly, the original suit is filed for perpetual injunction. At this stage it

would not be proper to decide who is entitled for the amount deposited by the court commissioner in the court. It will be decided at the time of final hearing. In the present suit defendants have also take objections in their written statement that, present suit is barred as per the principle of res-judicata as per section 11 of Civil Procedure Code. Defendants also filed on record copy of judgment passed in R.C.S. No. 221/2010 in which court has held that, present plaintiff is not in exclusive possessor of the suit property. Considering this aspect and stage of the suit it would not be proper to allow the plaintiff to withdraw the amount deposited by the court commissioner in the court. Same will be decided at the time of final hearing Hence, I proceed to pass following order:

ORDER

Application stands rejected.

Sd/-

(*A. P. Karad.*)

Jt. Civil Judge, J.D.

Pandharpur

Date:- 18/02/2022

CERTIFICATE

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

Court : Jt. C. J. J. D. Pandharpur

Name of Stenographer : M. P. Gheradi.

Date : 18.02.2022

Judgment/Order signed by
the Presiding Officer on : 18.02.2022

Judgment/Order uploaded on : 18.02.2022