

**ORDER BELOW EXH. 76**  
(Passed on 10.02.2022)

The present application filed by the plaintiff under section 151 of Code of Civil Procedure for issuing the direction to the defendants for producing the bills of sugar cane which is supplied to the sugar factory. It is the contention of plaintiff that, in the suit property there is crop of sugarcane and same is ready for harvesting. Defendants are by cutting the said sugarcane supply the same to the sugar factory in the names of another persons and hide the actual income gained by them from the suit property. Therefore, for the purpose of proper adjudication of the relief of mesne profit plaintiff prayed to allow the application.

2] Defendants by filing their say below Exh. 79 have strongly opposed to the present application and submitted that, application filed by the plaintiff is false one. He has not given specific date and area sugarcane crop. The plaintiff and his son are obstructed the defendants for cutting the sugarcane in the suit property. Therefore, they have filed temporary injunction application below Exh. 70. The present application is filed at the premature stage. Therefore, defendant prayed to reject the application.

3] Considering the rival contention of both the sides. I have heard learned advocate from the both sides. The learned advocate for the plaintiff has relied upon the case law reported in **2002 (1) ALL MR (S.C. S.N.) 58 Sakhahari Parwatrao Karahale and anr. Vs. Bhimashankar Parwatrao Karahale in Civil Appeal No. 2628 of 1991**, in which Hon'ble Supreme Court held that, *Hindu Law- Joint family property- Partition not proved- Each member of the joint family is co-sharer and possession of one is the possession for all-Even if there was exclusive possession with one of them it would be possession on behalf of all, he cannot claim injunction against dispossession.*

4] I have gone through the above cited case law and facts of the present case in hand, in the present suit applications filed for temporary injunction by the plaintiff and defendants are decided on merit. Therefore, now the question in respect of injunction is not arises. Therefore, above cited case law is not applicable to decide the present application in hand. In the present application plaintiff has prayed to issue directions against the defendants for production of sugarcane bills. It is alleged by the plaintiff that, defendants have provided sugarcane crop to the sugar factory and said sugarcane crop is from the suit property. But, plaintiff

nowhere contended that, in whose name the said sugarcane is supplied and plaintiffs has also not mentioned the name of sugar factory in the present application. So also, the contention made in the present application is beyond the pleading in the plaint. Therefore, without pleading in the plaint the present application having no any legal force. So also, the question in respect of mesne profit is arises when the suit is decreed. Now in the present suit court has not framed the issues. Therefore, there is no question arises in respect of mesne profit at this stage. It is the case of plaintiff that, he has holding suit property jointly along with defendants and suit property is their ancestral property. Therefore, considering pleadings in the plaint, I find no any substance in the present application. It is settled law that, parties to the proceeding should prove their case by adducing evidence before the court but they cannot take assistance of the court for collecting their evidence. Considering this aspect the present application is not tenable. Therefore, I proceed to pass following order :

**ORDER**

Application stands rejected.

Date:- 10/02/2022

Sd/-  
( *A. P. Karad.* )  
Jt. Civil Judge, J.D.  
**Pandharpur**

**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 : 10.02.2022

Judgment/Order signed by  
the Presiding Officer on : 10.02.2022

Judgment/Order uploaded on : 11.02.2022