

ORDER BELOW EXH 445.

1] This is an application filed by plaintiff under Order 39 Rule 1 and 2 of Civil Procedure Code. He pleaded that he filed present suit for partition and separate possession. During the pendency of the suit, some of the defendants are trying to alienate the suit properties. Suit properties are situated at village Pangari and with a view to avoid multiplicity of the suit, it is just and proper to restrain all defendants from alienating the suit property to anybody-else till final decision of this suit, therefore, he filed instant application.

2] Defendants filed their say thereon stating therein application filed by plaintiff is not legal and tenable one. No any defendants alienated the suit property, but with a view to delay the trial, plaintiff filed false application with a view to pressurize to defendants. So they prayed for rejection of application of plaintiff.

3] On pleading of both parties, following points arise for my determination and I have recorded my findings thereon for the reasons stated herein below :

	Points	Findings
1]	Whether plaintiff made out prima-facie case?	<i>In affirmative.</i>
2]	Whether balance of convenience lies in favour of plaintiff?	<i>In affirmative.</i>
3]	Whether irreparable loss will be caused to plaintiff if T.I. is refused?	<i>In affirmative.</i>
4]	What order?	<i>As per final order.</i>

REASONS

4] **As to Point Nos. 1 & 2 :**

I have gone through the application of plaintiff, say of defendants, perused proceeding, heard R.M.Bugade advocate appearing on behalf of plaintiff, Shri Naiknware and Awate advocate appearing on behalf of defendants at length. It appears that present suit is filed in the year 1986 for partition and separate possession in respect of suit land Gut Nos.557, 561,539,819,555,533,498,569 and house property bearing No. 938, situated at village Pangari, Tqluka : Barshi, District : Solapur. No doubt, the plaintiff brought on record that the defendants alienated land Gut No.555 during the pendency of the suit to one Satpute. On perusal of entire proceeding, it appears that matter is very old one. It is for evidence, but during the pendency of the suit, defendants alienated land Gut No. 555 to one

Bibhishan Satpute. Plaintiff also filed his affidavit on record and it is also apprehension in the mind of plaintiff that the defendants trying to alienate other properties to 3rd party. So considering the old matter and with a view to avoid multiplicity of the suit and to decide as early as possible within time, it is just and proper to restrain to the defendants from alienating suit properties till final decision of this suit. So the plaintiff made out his prima facie case, balance of convenience also lies in his favour and if the T.I. is granted, no any harm will be caused to the defendants. On the contrary, if the T.I. is refused, defendants will succeed to alienate the suit properties to anybody-else then irreparable loss will be caused to the plaintiff. So under such circumstances, I answer on point Nos. 1 to 3 in affirmative and proceed to pass the following order.

ORDER

- (1) Application below (exhibit 445) is hereby allowed as prayed for.
- (2) All defendants are hereby temporarily restrained from alienating suit properties to anybodyelse till final decision of this suit.
- (3) Cost in cause.

Date : 01/08/ 2013.

(Vikramaditya K. Mande)
Jt. Civil Judge, S.D.,
Barshi.