

ORDER BELOW EXH.05 IN R.C.S.NO. 271 of 2014
(PASSED ON 5th DAY OF February- 2015)

Sou. Jayshree S. Munde etc. ::::: Plaintiffs.
V/s.
Shankar D. Munde ::::: Defendant.

This is an application filed by the plaintiffs seeking to restrain defendants from alienating suit properties till disposal of the suit. In short, facts necessary for disposal of application are as following :

02] Plaintiff No.01 claimed that she is wife of defendant and plaintiff No.02 to 04 are the minor children of plaintiff No.1 and defendant. According to plaintiff No.1 their marriage is still subsists. However, due to different vices defendant abandoned plaintiffs and neglected to maintain them. He also threatened plaintiffs that he would dispose of his landed property and refused to maintain them. Thus, plaintiff are living their livelihood at the mercy of the others. According to plaintiffs defendant is landlord having different agricultural and allied business. He is earning Rs.5,00,000/- to 6,00,000/- per annum and also have house property. Except these plaintiffs nobody dependent on him. Accordingly, plaintiff claimed to grant maintenance at the rate of Rs.5000/- per month to each plaintiff and prayed to keep charge of the maintenance on the landed property of defendant i.e. Gat No.503 and 441. Thus sought to grant interim injunction to restrain defendant from creating any third party interest in suit properties.

03] Defendant appeared and opposed suit claim and the application filing say and written statement at Exh. 21. Defendant specifically denied that plaintiff No.1 is his wife and plaintiff No.02 to 04 are children. Defendant denied all allegations raised in plaint. It is his specific case that his marriage was solemnized in the year 1994 with one Anusaya resident of District Beed. Since then, his marriage is in subsistence and he begotten son namely Rohit from said marriage. Thus, he never married with plaintiff No.01. Thus relation in the nature

of the marriage is never established with plaintiff. However, defendant specifically admitted that he had illicit relations with plaintiff No.01 and defendants No.02 to 04 were born out of the said relation. Defendant has pleaded how he came in contact with plaintiff No.01 and he established relations with plaintiff No.01. Thus, defendant denied claim of plaintiffs and contended that the plaintiffs are not entitled for maintenance. Thus, sought to reject application Exh.05.

04] I have heard ld. Advocate Mr.Kazi for plaintiffs and ld. Advocate Mr.S.S.Jadhavar for the defendant. Having considered the same, following points arises for my consideration. I have recorded my findings thereon for the reasons stated thereunder :

SR.NO.	POINTS	FINDINGS
01]	Whether plaintiff has made out <i>prima-facie</i> case?	In the Affirmative
02]	Whether balance of convenience lies in favour of plaintiff?	In the Affirmative
03]	Whether plaintiff suffers from irreparable loss, if injunction rejected?	In the Affirmative.
04]	What order?	AS PER FINAL ORDER

R E A S O N S

AS TO POINT NO.01 TO 04 :

05] During arguments ld. Counsel Mr.Jadhavar for the defendant fairly submitted that defendant would never threatened to dispose of his landed properties and he would not disposed of the properties in any manner till disposal of suit. In these circumstances and in view of disputed relations, till hearing of the suit interim protection can be granted to the plaintiffs to avoid multiplicity of the proceedings and to protect the rights of the both sides. Thus, the plaintiffs have prima facie case and balance of convenience lies in their favour. If the relief

of injunction is not granted the plaintiffs might suffer from irreparable losses. Hence, I answer points under consideration accordingly and pass following order.

ORDER

- 1 Application Exh.5 is allowed.
2. Defendant is hereby restrained by an order of temporary injunction not to create third party interest in the suit land Gat No.441 and 503 to the extent of his share till disposal of the suit, or further order, whichever is earlier.
- 3 Costs in cause of application.

Date: 05th February 2015.

(**Sudhir N. Shinde**)
Jt.Civil Judge, Junior Division,
Barshi.