

ORDER BELOW EXH.05

This application is filed by the plaintiff for seeking temporary injunction against the defendants to restrain them from obstructing peaceful possession of the plaintiff in the suit property and transferring the suit property in any manner to anyone till final disposal of this suit. The Ld. Advocate for the plaintiff vehemently argued for issuing status quo in favour of the plaintiff as he is apprehended that the defendants are about to transfer the suit property to avoid his share.

2. Gat no.669 admeasuring 2H-69R situated at village Kem, Tal.Karmala, Dist.Solapur is the suit property. The plaintiff and the defendant no.1 are real brothers. Their father purchased the suit property out of his own income source on 06.06.1980 by virtue of sale deed bearing no.580/1980. However, the sale deed was registered in the name of the defendant no.1, therefore in the record of rights name of the defendant no.1 is entered as the owner. By taking disadvantage of this fact, the defendant no.1 was trying to sell the suit property. Hence, father of the plaintiff and defendant no.1 issued notice dtd.16.03.2001 in weekly newspaper 'Kamlabhavani Sandesh'. Thereafter, he filed RCS No.118/2001 for declaration and perpetual injunction. It was decreed on 29.09.2008 and it was declared that the plaintiff is owner of the suit property and he purchased the suit property out of his own income and the defendant was restrained from creating third party interest or transferring the suit property. The defendant no.1 filed appeal no.52/2014, but it was dismissed in default. Father of the plaintiff executed registered will in favour of the plaintiff on 17.12.2008 bearing no.2965/2008. He died on 31.03.2014. The plaintiff started procedure for taking entry in the record of rights as per the will of his father. Circle Officer filed report dtd.11.04.2025 that in the 7/12 extract of the suit property, the entry of plaintiff's name can be taken. Still the defendant no.1 sold 0H-65R land out of suit property to the defendant no.2 by virtue of sale deed bearing no.3220/2025. Plaintiff obstructed to the entry of names of the defendants no.2 and 3 and there entries were cancelled. On the basis of will of the father of the plaintiff, his name is entered by virtue of M.E. No.15990 in the record of the suit property. But, it is yet to be certified and pending. Hence, the defendant no.1 is trying to sell out the remaining portion of the suit property, so that plaintiff could not

get his rightful share in the suit property. He is also obstructing the possession of the plaintiff in the suit property.

3. Heard detailed argument of the Ld. Advocate of the plaintiff. On perusal of the 7/12 extract of the suit property it *prima facie* transpired that there is an entry of the defendant no.1 as a possessor. Copy of M.E. No.15990 shows that name of the defendant no.1 was removed and entry of the plaintiff was taken in the record of the suit property. Copy of Regular Civil Appeal No.52/2014 shows that said appeal moved by the defendant no.1 was dismissed in default. Therefore, *prima facie* it appears that the Tahsildar also cancelled the M.E. No.15910 by virtue of which names of the defendants no.2 and 3 were entered in the record of the suit property. This *prima facie* shows that the plaintiff has right, title and interest in the suit property. If the defendants continue to obstruct the plaintiff and attempt to transfer the suit property to create third party interest, the plaintiff will suffer irreparable loss. Hence, in my considered opinion it is necessary to maintain status quo till final decision of application below Exh.5. Accordingly, I proceed to pass the following order -

ORDER

1. Both parties are directed to maintain status quo in respect of the suit property and the defendants should not transfer the suit property in any manner to anyone or create any kind of third party interest in the suit property or obstruct the plaintiff's possession in the suit property, till final decision on the application at Exh.5.
2. Plaintiff to comply the provisions of Order XXXIX Rule 3 of Code of Civil Procedure immediately.

Date: 14/08/2025
Place: Karmala

(Smt.S.P. Kulkarni)
2nd Jt. Civil Judge J.D., Karmala.