

Order below exh.29

The plaintiff has filed present application and requested to stay measurement of sub division of gat no.48. It is submitted that plaintiff has instituted present suit and prayed for partition and their separate share. It is contended that defendants have applied for measurement of sub divided parts of gat no.48. It is contended that they received notice from Assistant Superintendent, land record. Therefore, they applied and requested to stay measurement which will be to be carried out on 14.01.2023.

2. Ld. advocate for the defendants filed his say below application and resisted present application. It is submitted that present application is not legal gat no.48 was divided between plaintiff and defendant in 1994, accordingly mutation entry no.2099 effected and gat no.48 sub divided in gat no.48/1 and 48/2. Furthermore, plaintiff sub divided between his legal heirs by mutation entry no.2720. Therefore, he requested to reject present application.

3. It appears present suit has been instituted for partition of gat no.48/1, 48/2/A, 48/2/B, 48/2/C. However, application of exh.5 is yet to be decided. It is submitted that defendant nos. 1 to 4 appeared in the suit. Whereas suit summons at yet not served to defendant no.5. Suit is at its premature stage. It cannot be ruled out that measurement of suit property may prolong hearing of exh.5. However,

commenting on nature of suit, rights of parties would result into prejudging the suit. Thus, it would be just maintain status quo. However, allowing present application will maintain status quo. Hence, proceed to pass following order:-

ORDER

1. Measurement dated 14.01.2023 is hereby stayed till next date.
2. Plaintiff is hereby directed to file under taking to pay measurement fee (Khoti Fee) if required.
3. Plaintiff to take effective steps to serve summons on defendant no.5.
4. Both parties to hereby directed to take effective steps to decide exh.5 expediently.

Date :-13.01.2023

(R.A.Shivratri)
Jt.Civil Judge, Junior Division,
Karmala

CERTIFICATE

I affirm that the contents of this PDF file order is same word to word as per the original order.

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| (a) Name of the Stenographer | :- | Netaji Bharat Labade |
| (b) Court | :- | Jt.CJJD & JMFC, Karmala |
| (c) Order signed by P.O.on | :- | 13.01.2023 |
| (d) Order uploaded on | :- | 13.01.2023 |