


MHSO200011722025 	<u>R.C.S.225/2025</u> (Dasharath Lendve Vs. Shiwaji Lendve & anr.)
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ORDER BELOW EXH.5

1. The plaintiff instituted the suit for declaration, partition & perpetual injunction wherein, he has filed an application (Exh. 5) under Order XXXIX, Rule 1& 2 of the Civil Procedure Code,1908 for temporary injunction against defendants.
2. Ld. Advocate of the plaintiff submitted that, according to the plaintiff, suit property situated at Sangola i.e. Gat No. 61/2/B. Wherein total area is 1H - 0.5 R along with barren land area 0.10 R. Out of this total area 1H-16R along with barren land area 0.10 R belongs in the name of plaintiff and defendant. Plaintiff purchased 0.20R land from Fiza Salim by executing sale deed on 23.11.2023. The same is self acquired by plaintiff.
3. Thereupon, plaintiff and defendant No.1 resided over that property mutually by construction of their own houses. Meanwhile, defendant No.1 executed gift deed on 06.08.2024 in favour of defendant No.2. The same is structured one. Moreover, plaintiff further submitted that, defendant No.1 has erroneously mentioned four boundaries while executing gift deed. Along these lines defendant No.1 making obstruction over the possession of plaintiff's house. Hence, prayed to allow this application.
4. Heard Ld. Advocate of Plaintiff. Perused the application along with affidavits and documents filed in length.

5. On considering submission of Ld. Advocate of plaintiff and perusal of application along with documents it appears that, plaintiff is brother of defendant No.1. Till date partition between them has not taken place. On perusal of 7x12 extract of Gat No. 16/2/B, it appears that name of plaintiff and defendant No.1 was recorded through mutation entry No. 63901 in which 0.96 R area was recorded in the name of plaintiff and defendant No.1. and also 0.20 R area was recorded in the name of defendant No.2. However, on going through gift deed prima facie it appears that, defendant No.1 executed gift deed of 0.20 R area in favour of defendant No.2. On going through all the documents and submissions and application it appears that partition between parties till date has not taken place. Besides, prima facie it appears that both parties are having their share in suit property. Prima facie it is in cloud to say whether the area i.e. 0.20 R is self acquired by plaintiff or not. Therefore, it is necessary to be heard both parties. Hence, I pass following order.

ORDER

1. Issue notice to defendants calling upon them to show cause as to why temporary injunction prayed for should not be granted, **returnable on 05/07/2025.**
2. E.P., S.B. is allowed, if prayed for.

Date:- 17/06/2025

(Smt. A.A.Patil)
Jt. Civil Judge Junior Division,
Sangola