

CNR MHST-0500-0584-2012

IN THE COURT OF CIVIL JUDGE SENIOR DIVISION, KARAD

ORDER BELOW EXH.158 IN R.C.S.No.507/2012

Sou. Ranjana Shashikant Ghadage.	...Plaintiff.
<i>Versus</i>	
1. Shri. Jagannath Shankar Surye (Deleted since deasead) 2. Sou. Shantabai Jagannat Surye & Ors.	...Defendants.

Advocate Shri. S. V. Lokare for the plaintiff.

Advocate Shri. G. P. Shinde for the defendant No.22C

Coram : S. B. Todkar,
C.J.S.D. Karad.
Date : 02/08/2025

ORAL ORDER :-

This is an application filed by Ld. advocate for the defendant Nos.5 to 7 for permission to produce the documents mentioned in the document list Exh.159 on record and read them in evidence.

2. Perused the application and handwritten say given by Ld. Advocate for the plaintiff on application overleaf. Heard Ld. Advocates for both side.

3. It appears from record that plaintiffs have filed suit against the defendants for declaration, partition and possession of the suit properties on the grounds specifically mentioned in the plaint. After service of writ of summons defendant No.3 and 4 appeared and filed their written statement at Exh.43, defendant No.11 at Exh.46, defendant No.1 at Exh.78, defendant Nos.5 and 6 at Exh.80, defendant Nos.18 to 20 at Exh.116, defendant No.16 at Exh.113, defendant Nos.13 and 14 at Exh.115. No written statement orders are passed against defendant Nos.2, 8, 15, 17. Exparte order

passed against defendant No.9. During pendency of suit defendant No.22 i.e. Sampatrao Appaso Survey expired. Plaintiffs have filed application below Exh.23 to bring his legal heirs on record, which is allowed and accordingly, plaintiffs have carried out necessary amendment in the plaint and supplied copy of amended plaint on record. Thereafter, the defendant Nos.3 and 4 filed an application below Exh.150 for temporary injunction against the defendant Nos.5 to 7 restraining themselves from making any new construction till the decision of the suit.

4. After perusal of the contents of present application and the argument advanced by Ld. advocate for the defendant No.5 to 7, it appears the documents are necessary to determine the real question in controversy involved in the interim application. If present application allowed, no prejudice would be caused to the plaintiff or remaining defendants. They can get an opportunity to file their say and refer or rebut the documents at the time of hearing of the interim application. The said documents are related to the issues involved in the suit and the real controversy between the parties in the interim application. It appears from record that whatever documents produced alongwith present application and with document list Exh.159 were not produced at earlier stage or at the time of presentation of written statement, therefore, defendant No.5 to 7 are seeking permission from the Court to produce it alongwith present application. As per Order VIII Rule 1-A sub-clause (3) of the Code of Civil Procedure, 1908, a document which ought to be produced in Court by the defendant under this Rule, but, is not so produced shall not, without the leave of the Court be received in evidence in his behalf at the hearing of the suit. Whatever documents produced by the defendant No.5 to 7 alongwith

document list Exh.159 i.e. certificate issued by village officer, Hajarmachi about the inhabitable condition of the house and photographs of house are the documents on which they want to rely, and to support their hearing of the interim application. The said documents are necessary for the purpose of determining the real question in controversy between the parties in the interim application. Moreover, it is necessary to give full and fair opportunity to both the parties to prove their contentions in the plaint and written statement, application and say. Therefore, I found substance in the submission made in the present application. Temporary injunction application is pending. Hearing of the suit is not yet commenced. The persons who prepared certificate or who snatched the photographs are not examined before the Court. The defendant Nos.5 to 7 are not author of these documents. The negative, developer bill is not produced on record. Therefore, at this stage these documents are not admissible in evidence. But they can be used for co-lateral purposes of the hearing of the interim application. Therefore, the prayer of reading these documents in evidence is not maintainable at this stage. Hence, I proceed to pass the following order.

ORDER

1. Application Exh.158 is partly allowed to the extent of production of the documents only.
2. Permission is granted to the defendant No.5 to 7 to produce the documents mentioned in the document list Exh.159 on record which are in support of their pleadings in the temporary injunction application or its say.

Date : 02/08/2025.

Place - Karad.

[S. B. Todkar]

Civil Judge S.D. Karad.