

Order below Exh. 50 in R. C. S. No. 50/2011.
(CNR NO.MHST05-000789-2011)

*Vasudev Ghadage Vs. Chief officer of Pune
Grihnirman va Kshetra Vikas Mandal etc.*

Plaintiff has filed a suit for removing encroachment on private property of the plaintiff, which was made by the defendant No.1 as well as for giving direction to the defendant No.1 for erecting compound wall between the place of plaintiff and defendant No.1, after making measurement.

02. He has filed the application Exh.50 for injunction with prayer of non issuance of no objection certificate relating with the Survey No.22/1.

According to the plaintiff, the suit property is ancestral property of the plaintiff. It recorded in the name of the plaintiff vide ferfar No.609. Plaintiff had filed civil suit against defendant No.1 as R.C.S. No.85/1980. Said suit was decreed. Defendant No.1 challenged the decision of said suit in the Hon'ble High Court vide Appeal No.169/2002. Before the Hon'ble High Court, matter has been settled between parties and compromise decree came to be passed on 12/04/2005. As per compromise decree, defendant No.1 has purchased said encroached area 0.36 R in S.No.22/1, on 12/04/2005. As soon as deal of purchasing of property i.e. 0.36 R is completed, said transaction has to be entered in concerned record of the government but it did not happen. Now, defendant No.1 is using said 0.36 R land for non-

agriculture purpose without prior permission of the government. Defendant No.1 has joined his hands with concerned officer of revenue and giving no objection certificate to the holder of complex No. 25 to 54, which is situated in said 0.36 R land. Plaintiff realized said fact recently. Accordingly, in June 2021, he issued notice to the defendant No.1. He also informed said thing to sub-divisional officer Karad, however, nobody had given response to him. Thus, defendant No.1 is illegally issuing no objection certificate without getting done his name on concerned record of the government. Hence, plaintiff rushed to this Court and prayed for restraining the defendant No.1 from issuance of no objection certificate.

03. Defendant No.1 appeared in the suit but he did not filed his say even after receiving much opportunities. Therefore, order is passed for proceeding the application without say.

04. In view of aforesaid story following points arise for my determination. I have recorded my findings thereon with reasons given as below.

Sr.No.	Points	Findings
1.	Does plaintiff prove that he has prima facie case ?	No
2.	Is balance of convenience lies, in favour of the plaintiff ?	No
3.	Whether irreparable loss would cause to the plaintiff if injunction is not granted ?	No

4.	What order ?	Application stands rejected.
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REASONS

As to point Nos. 1 to 3:-

05. All points being interlinked I am discussing it simultaneously. Prior to discussing the points, it is to be mentioned here that, what came before me from record that consent terms has been taken place between the parties before the Hon'ble High Court while the proceeding of second appeal No.169/2002. Accordingly, as per consent terms, defendant No.1 has purchased 0.36 R portion of Survey No. 22/1.

It shows that, at present there is no dispute between parties about an encroachment. Plaintiff himself says that, defendant No.1 has purchased 0.36 R land as per consent terms. If defendant No.1 has purchased the land, then, he became owner of said land. Therefore, now plaintiff has no concerned with said land. What the owner does in his own land is not a job of plaintiff to look after.

06. So far as, issuance of no objection certificates etc. is concerned, it is the matter between concerned authority and receiver of no objection certificate. Therefore, I did not find the concerned of plaintiff with said things which has been mentioned

by him in Exh.50. Claim of the plaintiff is totally found to be irrelevant.

07. I did not find that plaintiff has prima facie case, in such circumstances, there is no reason to see balance of convenience to see in favour of the plaintiff. Once the plaintiff has sold out said land therefore, there is no reason to suffer him with irreparable loss.

08. Considering all these things, I come to the conclusion that plaintiff has no prima facie case, no balance of convenience lies in his favour and he would not suffer irreparable loss if application is rejected. Therefore, I answer point Nos. 1 to 3 in negative.

As to point No.4:-

09. In view of my above discussion I came to the conclusion that application deserves to be rejected and I proceed to pass following order.

ORDER

- 1 Application stands rejected.
2. Cost in main cause.

Place: Karad.
Date: 07.06.2022.

(Jayshree Punawala)
3rd Jt. Civil Judge, S. D. Karad.