

MHST060005082018

R.C.S. NO. 97/2018



Ashok Parbati Ugalmogale

Vs.

Dhanaji Gulab Veerkar

ORDER PASSED BELOW EXH.90

This is an interlocutory application filed by the defendant no.1 seeking a direction for police protection to carry out construction over the suit property gat no.686. It is contended that defendant no.1 is owner and in separate possession of suit property. However, even after partition plaintiff is causing obstruction in construction over the suit property. The application for temporary injunction was allowed in favour of plaintiff on 03/08/2023. Against the order on injunction application defendant no.1 filed and appeal Civil.Misc.A.No.53/2023 which was decided on 30/04/2025 and the temporary injunction order passed in favour of plaintiff was set-aside by Appellate Court. Therefore, it is further contended that, plaintiff no right to obstruct the defendant no.1 from constructing over the suit property. Therefore, it is prayed to allow this application and provide police protection for construction.

2. Plaintiff filed his say vide Exh.95 and strongly resisted the application and has denied all the contentions in the application. contended that, in Civil.Misc.A.No.53/2023 the appellate Court has set-aside the order of interim relief granted to plaintiff. It is further contended that, plaintiff has filed Writ Petition against order passed in Civil.Misc.A.No.53/2023. Therefore, he prayed to reject the application.

3. Heard learned counsel for plaintiff and defendant no.1 at length. To support his contentions the defendant no.1 has filed copy of order passed in Civil.Misc.A.No.53/2023 vide Exh.93. On perusal of order passed by Hon'ble Appellate Court observed that the partition of suit property gat no.686 is yet to be done between parties. Plaintiff and defendant no.1 both are in joint possession of suit properties. It was also observed that, the right of parties as to title and possession over suit property is yet to be adjudged.

4. It is an admitted position that the suit is pending adjudication and that the issue of title and possession is sub-judiced. In such circumstances, granting police protection in cases of disputed possession amounts to pre-judging the suit. Moreover, it will pre-judice the out come of the suit. Therefore, this Courts finds that allowing construction under police protection during pendency of the suit would not be appropriate. If, such construction is permitted, it may give rise to further complications and even render the suit infructuous. Therefore, for the above reasons the application is liable to be rejected.

Sd/-xxx

(A. Y. Shaikh)

Jt.Civil Judge Jr. Division,
Dahiwadi.

Date : 22/07/2025

-: Affirmation certificate :-

I affirm that the contents of this P.D.F. file order are same, word to word as per original order.

Name of the Stenographer	:- P. R. Kamble, Steno Grade-3,
Name of the Court	:- Civil Judge (J.D.) & J.M.F.C., Dahiwadi, Tal. Man, Dist. Satara.
Date of judgment/order	:- 22/07/2025
Judgment/order signed by the Presiding Officer on	:- 22/07/2025
Date of judgment/order uploaded on	:- 25/07/2025