

Order Below Exhibit 26 in RCS No. 03/2022

This is an application filed by the plaintiff for the grant of ad-interim temporary injunction against the defendants.

2. Plaintiff contended that, Suit property Gat No. 114, 154, 2336, 2308, 2307, 1824 are the ancestral properties of plaintiff and defendant. However, the suit properties Gat No. 1969 and 111 are the self acquired properties of the plaintiff No. 2. Defendant No. 1 has made false complaint against the plaintiff and therefore the proceeding under Section 145 is initiated against the plaintiff. Defendants are trying to dispossess the plaintiffs from the suit property. Today also defendant has filed adjournment application to file say on temporary injunction application (Exhibit 5). Hence, prayed for ad-interim temporary injunction against the defendant No. 1.

3. Defendant No. 1 has filed her say and resisted the present application. Defendant No. 1 contended that, there is no evidence on record to prove the contentions of plaintiffs in present application. Defendant is ready to file her say within 4 to 5 days. Hence, prayed for rejection of the application.

4. Read application and say. Heard learned advocates for both parties. Perused the record. It appears that, plaintiffs have asked for the temporary injunction against the defendant No. 1 below Exhibit 5. Today defendant No. 1 has filed an adjournment application and ask for the time to file her say to the temporary injunction application. Learned advocate for the plaintiff submitted that one proceeding is pending before the Court of Tahasildar as per Section 145 of the Code of Criminal Procedure. He further submitted that, there is every possibility that Tahasildar may pass

an order and dispossess the plaintiffs from the suit property. From perusal of record it appears that, one proceeding is pending before the Court of Tahasildar as per Section 145 of Code of Criminal Procedure. However, there is no evidence is on record which shows that Tahasildar has conducted an inquiry as per Section 145 of the Code of Criminal procedure. Therefore, it appears that inquiry as per Section 145 (4) is not yet initiated before the Court of Tahasildar. Hence, accordingly there is no urgency is seen from the available record.

5. Plaintiffs has filed the 7/12 extracts of the suit properties along with list of documents (Exhibit 3). From perusal of said extracts, prima facie it appears that plaintiffs and defendants are in joint possession of suit properties Gat No. 2336, 2308, 2307, 1824, 114, 154. So also, defendant No. 1 has filed a copy of an application of plaintiff to the Tahasildar along with list of documents (Exhibit 29). From perusal of said application it appears that, plaintiff has filed an application before Tahasildar on 06.12.2021 i.e. before filing of present suit. From perusal of said application, prima facie it appears that plaintiff has intimated to the Tahasildar that on 16.10.2021 defendant has forcefully planted some crops in suit property Gat No. 111. Hence, prima facie it appears that defendant No. 1 is in possession of the suit property Gat No. 111 before filing of present suit. Therefore, considering the documents available on record , it would not be proper to pass any order of temporary injunction without hearing the other side. Therefore it would be proper to give sufficient opportunity to defendant No. 1 to file his say to the temporary injunction application (Exhibit 5). It is seen to be proper to decide the application of temporary injunction on its merits. Hence, as there is no urgency is seen in present matter it would not be proper to grant ad-interim temporary injunction as prayed by plaintiffs. Hence, I pass the

following order.

ORDER

1. Application (Exhibit 26) is hereby rejected.
2. No order as to costs.

Date :08.02.2022
place : Koregaon

(Sameer Gopal Gunari)
2nd Civil Judge Junior Division
Koregaon.