

ORDER BELOW EXH.5 IN R.C.S. NO.239/18

1. Today this matter is kept for say of defendant No.1 on the application filed by plaintiff for interim injunction. Defendant No.1 & 2 appeared. However, they did not file say.
2. Plaintiff argued that, he has an urgency on hearing of Exh.5, because sugarcane crop standing on the suit property is ready to cut down and if it is not cut down in time then he would suffer huge monetary loss.
3. He further argued that, there was partition taken place between plaintiff and defendants by registered partition deed dt. 15/6/2016. In said partition suit property was come into the share of plaintiff.
4. Defendant No.1 and 2 appeared but they did not file say.
5. Heard the plaintiff in person. Perused documents filed on record. In my opinion at this stage it is required to save crop from diminishing its value. Plaintiff has filed on record water bills and affidavits of adjoining land holder, which prima-facie show his possession over the suit property and he has cultivated said crop. Defendant No.1 did not file say, in spite of opportunity, therefore prima-facie adverse inference can be drawn that he would not suffer any loss by order of ad-interim injunction.
6. Defendant No.1 has not yet filed his say and written statement. Therefore interim application yet to be decided on merit. However, since crop is perishable in nature, it required to be cut down and sell on time. Plaintiff argued that, defendant No.1 is disturbing his possession and obstructing him from cutting down standing crop. Therefore plaintiff is entitled to get ad interim injunction in his favour.
7. Further, it would be just and proper to ask for security from the plaintiff to save interest of defendant No.1. Plaintiff submitted that

he would get approximately Rs.1 Lakh sale proceeds from sugarcane crop in disputed 40R area. Thus, it would be justified to order the plaintiff to furnish indemnity bond on Rs.100/- Stamp paper stating that he would pay Rs.1 Lakh crop value to defendant No.1, if he fails to prove his ownership over the crop at the end of trial.

8. In result, I pass following order:

Order

1. Defendant No.1 shall not disturb possession of plaintiff over the suit property and shall not obstruct the plaintiff from cutting down and selling of sugarcane crop till final decision of Exh.5.
2. Plaintiff shall furnish bond of indemnity on Rs.100/- stamp paper stating that he would pay crop value of Rs.1 Lakh to defendant No.1 if he fails to prove his ownership on said crop at the end of trial.
3. Both parties shall co-operate with the Court to expedite hearing on application at Exh.5.

Phaltan.

Date:26/12/2018

(Archana H. Thakur)

Civil Judge Jr. Dn. Phaltan.