

MHST160011882021



ORDER BELOW EXH. 05 IN R.C.S. NO. 132/2021.

1. Read application. Heard Ld. Adv. S. S. Shinde holding for Ld. Senior Adv. N. M. Wadikar for the plaintiff.
2. The plaintiff has filed this application along with affidavit as per Order 39, Rule 1 of Code of Civil Procedure and prayed that, temporary injunction may kindly be granted in favour of the plaintiff restraining thereby to defendant No. 1 directing not to alienate the suit property till disposal of this suit. Ld. Counsel submitted that, till the appearance of defendant No. 1, relief of ex-parte ad-interim injunction may kindly be granted in favour of the plaintiff.
3. The plaintiff has filed this suit for the relief of specific performance of contract in respect of agricultural land bearing Gat No. 1086, area 0 H 32 R out of 3H 25 R (including pot hissa). It is stated that, on 12.05.2005 defendant No. 1 had executed deed of registered agreement of sale in favour of the plaintiff in respect of the said property. It is further stated that, Rs. One Lakh Eighty Three Thousand consideration amount was

fixed and out of that amount, Rs. One Lakh Fifty Thousand was paid and it was decided that, remaining consideration amount will be paid at the time of execution of registered sale-deed. It is further stated that, since execution of deed, from time to time the plaintiff has shown his readiness and willingness to perform his part towards deed. Defendant No. 1 has not performed her part, therefore, the plaintiff constrained to file this suit.

4. It is further stated that, as per recital of registered deed dated 12.05.2005, the plaintiff got possession of the suit property. Since 12.05.2005, the plaintiff is in possession over the suit property. Now the plaintiff has come to know that, defendant No. 1 is trying to alienate the suit property to third person. If defendant No. 1 is succeeded to alienate the suit property then very purpose to institute this suit will be infructuous. In such circumstances, defendant No. 1 is required to restrain from alienating the suit property to third person by the relief of ex-parte ad-interim injunction, till appearance of defendant No. 1 in this suit. Hence, the plaintiff orally prayed for such relief.

5. I have perused plaint, application Exh. 5 which is supported by affidavit. I have gone through documents filed along with list Exh. 3 . It appears from photo copy of alleged deed dated 12.05.2005, that agreement of sale was executed between the plaintiff and defendant No. 1 and Rs. One Lakh Fifty Thousand consideration amount was paid. It appears from

copy of 7x12 extract of the suit property, the name of the plaintiff is reflect thereon. Considering document on record and affidavit of the plaintiff, at this stage I have no reason to disbelieve on the submission made by the plaintiff. If the submission of the plaintiff is rejected then certainly object of granting of injunction would be defeated by delay. In such circumstances, in this particular suit, relief of ex-parte ad-interim injunction is required to be granted. Reason is that, if such relief is not granted then the plaintiff will suffer economical loss. Therefore, I pass the following order.

- ORDER -

1. Issue ex-parte ad-interim injunction against the defendant No. 1 Janabai Kanade for restraining her from alienating the suit property to third person till her appearance and filing the say to this application in the Court.
2. Issue show cause notice to the defendant No. 1 Janabai as to why the above ex-parte ad-interim injunction order shall not be made absolute. Notice shall be returnable on **29.10.2021**.
3. The plaintiff to comply Order 39 Rule 3(a) and 3(b) of the Code of Civil Procedure.
4. E.P. and S.B. is allowed, if claimed.

Place : Wai.
Date : 21.10.2021.

(V. N. Girwallkar)
Civil Judge Junior Division, Wai.

:: C E R T I F I C A T E ::

“ I certify that this Judgment / Order uploaded is a true and correct copy of original signed Judgment / Order.

Order directly dictated on : 21.10.2021.

Order checked and signed on : 21.10.2021.

Uploaded by : A. M. Agawane.
(Stenographer) Grade III.

Uploaded on : 21.10.2021.