

R.C.S. No. 119/2022
Chhaya Vs. Avinash& Ors.

ORDER BELOW EXH.5.
(CNR No.:MHST180002282022)

The plaintiff/applicant filed this application under Order XXXIX, rule 1 and 2 of the Code of Civil Procedure for granting temporary injunction against defendants.

2. I read an application. No reply/written statement filed by defendants. The suit is proceeded without written statement of defendant no. 1 to 4 vide order below Exh. 1 dated 27.03.2023.

3. I perused the entire record. Heard the learned counsel for the plaintiff Adv. Shri. C.V. Inamdar. The plaintiff and defendants are absent when called. The learned counsel for defendants Adv. Shri. T.S. Mali is also absent when called.

It is the contention of the plaintiff that, the plaintiff is the purchaser of 4 R. land of the field block No. 2594 total admeasuring area 0.39 H.R. situated at-Mayani, Tal- Khatav, Dist-Satara. (This is hereinafter referred as the suit property).

It is further contention of plaintiff that, the ancestor of defendant no. 1 to 4 namely Annasaheb Yashwant Deshmukh was the real owner of the suit property. The suit property was ancestral property of him. In the year 1996, he was in need of money. Therefore, he was intending to sell some portion of the suit property.

The plaintiff was ready to purchase the some portion of the suit property. Accordingly, the ancestor of defendants Annasaheb Deshmukh agreed to sale 3 R. land of the suit property to the plaintiff for the total consideration amount of Rs. 30,000/-. The plaintiff paid total consideration amount of Rs. 30,000/- and thereafter, on 01.11.1996, the ancestor of defendants executed and registered sale deed of 3 R. land of the suit property in the right of the plaintiff. Similarly, on 17.07.1998, the ancestor of defendants namely Annasaheb Deshmukh also executed and registered the sale deed of 1 R. land of suit property for total consideration amount of Rs. 26,000/- in the right of the plaintiff. Thus, the plaintiff became the owner and possessor of 4 R. land of the suit property on the basis of the sale deed.

However, the ancestor of defendants namely Annasaheb Deshmukh wrongly inserted field block no. 2590 instead of field block no. 2594 in the aforesaid sale deed. The plaintiff got possession of 4 R. land of the suit property, but the name of the plaintiff has not been entered in the revenue record of the suit property. The name of the plaintiff has been entered in the field block no. 2590. In the year 2022, the plaintiff came to know that her name has not been entered in the field block no. 2594, but her name is entered in the field block no. 2590. Therefore, the plaintiff approached towards defendants and requested to make correction deed in respects of the sale deed, but they refused to do so. Thereafter, the plaintiff issue legal notice to defendants on 25.01.2022 and requested to make correction deed. However, they have not paid attention. Therefore, plaintiffs filed this

suit against all defendants for the rectification of the sale deed dated 01.11.1996 and another sale deed dated 17.07.1998. The plaintiff also sought injunction that, defendants or any other persons shall not obstruct to the possession of the plaintiff over the suit property.

4. The defendant no. 1 to 4 appeared through their counsel, but they have not filed written statement or reply to this application.

5. On perusal of record, particularly, the 7x12 extract of field block no. 2590 and field block no. 2594, as well as the aforesaid sale deeds, it *prima facie*, appears that, the name of the plaintiff has been entered in the revenue record of field block no. 2590, but not to the field block no. 2594. The copy of the sale deed *prima facie*, shows that, Annasaheb Yashwant Deshmukh sold some portion of the suit property to the plaintiff in the year 1996 and 1997. Therefore, it *prima facie* appears that, the plaintiff is having right and interest in the suit property.

6. The issue of ownership and possession will be decided on the merits of case. However, it is necessary to mention here that, there is transaction in between the plaintiff and Annasaheb Deshmukh regarding the suit property. The plaintiff is appears to be in possession over some portion of the suit property. On the contrary, defendants have not filed any reply or written statement to show that, they are in possession over the suit property. Under these circumstances, *prima facie*, appears that, the plaintiff is in possession over the suit property on the basis of sale deed. Therefore, the

defendant no 1 to 4 can not obstruct or disturb to the possession of the plaintiff over the suit property.

7. The plaintiff came with clean hands. The plaintiff is having strong *prima facie* case against defendants. Therefore, irreparable loss will be caused to the plaintiff, if the injunction will be refused. I found substance in the application. Accordingly, I proceed to pass the following order.

ORDER

- 1) The application at Exh. 5 is allowed.
- 2) The defendant no. 1 to 4 or any other person shall not obstruct or disturb to possession of the plaintiff over suit property till the final decision of this suit.
- 3) The plaintiff is further directed to adduce their evidence (if any), on next date.
- 4) Parties to take note of it.

Vaduj.
Date:20.07.2023

(D.D. Fulzele)
Civil Judge Sr. Dn., Vaduj.

(R.S. Phadatare) Stenographer