

IN THE COURT OF CIVIL JUDGE, SR.DN. VADUJ
(Presided over by R. V. Wanwadi)

Spl. Civil Suit No. 8/2017

Ramchandra Jagtap & ors. - plaintifffs

Vrs.

Tanaji Bad & Ors 6 - defendant s

ORDER BELOW EXH.5.

(Passed on this 13th day of December, 2017)

This is an application moved on behalf of the plaintiffs for granting temporary injunction against the defendant No 1 & 2 thereby restraining them, their servants, agents or any body claiming through them from creating third party interest in the suit lands more particularly described in plaint para No1 till the final decision of the suit.

2. Perused the application. Defendant No. 1 & 2 failed to file the say. Hence application is proceeded without say against defendant No 1 & 2 . Heard learned advocate for the plaintiffs. No argument is advanced on behalf of defendant No. 1 & 2 . After going through the pleading of the plaintiffs, following points arise for my determination. I have recorded my findings against the same for the reasons to follow.

<i>Sr.No.</i>	<i>POINTS</i>	<u>FINDINGS</u>
1.	Whether the plaintiffs have made out prima-facie case in their	Yes.

Sr.No.	POINTS	<u>FINDINGS</u>
	favour ?	
2.	Whether the balance of convenience lies in favour of the plaintiffs ?	Yes.
3.	Whether the plaintiffs will suffer the irreparable loss if injunction is not granted in their favour ?	Yes.
4.	What order ?	As per final order.

REASONS

AS TO POINTS NO.1 TO 3 :-

(As all these points are inter related, they are discussed simultaneously.)

3. Perused the record and proceeding. It is the contention of the plaintiffs that defendant No. 1 to 3 have agreed to sale the suit lands to the plaintiffs as they were in need of money. The consideration of the suit lands was fixed at 79,99,500/-. The defendant No. 4 to 6 are the middle men. Till today plaintiffs have paid Rs. 74,00,000/- to defendant No. 1,2,4,5,6 . The defendant No. 1 has executed agreement to sale dt. 16/6/2016 and defendant No. 2 has executed agreement to sale dt 25/5/2016. However defendant No. 1 and 2 avoided to execute the sale deeds as per the agreed terms. Though the plaintiffs have demanded the execution of sale deeds from the defendant No. 1 to 3 they refused to execute the sale deeds. That since beginning defendants have intention to cheat the

plaintiffs and avoided to execute the sale deeds. Plaintiffs came to know that in order to defeat the rights of the plaintiffs, defendants are trying to create third party interest in the suit lands. Hence defendant No. 1 & 2 be temporarily restrained from creating third party interest in the suit lands.

4. In order to support their contentions plaintiffs have filed number of documents on record like copy of agreement to sale dt. 16/6/2016 executed by defendant No.1 in favour of plaintiff No.1, copy of agreement to sale dt. 27/5/2016 executed by defendant No.2 in favour of plaintiff No.2, the true copies of account extracts of the accounts of plaintiff No.1 & 2, cash vouchers showing payments given to defendant No. 4, 5, & 6, various public notices issued from time to time, notices issued to defendant No.1 & 2 from time to time, replies given by the defendants to the said notice, copy of the complaint made by the plaintiffs against defendants at Mhaswad police station, copy of the draft sale deed executed by defendant No. 2 & 3 in favour of plaintiff No.2 etc.

5. The entire oral contention as well as the documentary evidence filed on behalf of the plaintiffs is not denied on behalf of defendant No. 1 & 2. From the documentary evidence on record prima facie it reveals that defendant No. 1 & 2 have agreed to sale the suit lands to the plaintiffs. From the copy of the draft sale deed it reveals that even defendant No.3 has agreed to sell his share of land block No. 998 to the plaintiff No.2. From the documentary evidence on record prima facie it reveals that defendant No. 1 to 3 have agreed the sale the suit lands to the plaintiffs. Prima facie it also

reveals that the plaintiffs have paid huge amount as a consideration to the defendants. It reveals that in spite of that defendant No. 1 to 3 failed to execute the sale deeds in favour of the plaintiffs and avoided to perform their part of contract. It also reveals that therefore the plaintiffs have initiated criminal proceedings against the defendants.

6. It is the contention of the plaintiffs that in order to defeat the right of the plaintiffs, defendant No. 1 & 2 are trying to create third party interest in the suit lands. The said fact is not denied on behalf of defendant No. 1 & 2. It is the contention of the plaintiffs that if the defendant No. 1 & 2 succeeds in creating third party interest in the suit lands then it will cause heavy prejudice to them. Hence defendant No. 1 & 2 temporarily restrained from creating third party interest in the suit lands till the final decision of the suit. From the oral and documentary evidence on record it reveals that plaintiffs have made out prima facie case in their favour. The documentary evidence on record shows that plaintiffs have paid huge consideration amount to the defendants. Thus the balance of convenience lies in favour of the plaintiffs. If defendant No.1 & 2 succeeded in creating third party interest in the suit land then it will cause irreparable loss to the plaintiffs and therefore it is necessary to restrain the defendant No. 1 & 2 temporarily from creating third party interest in the suit lands till the final decision of the suit. Even if injunction is granted in favour of the plaintiffs it will not cause any prejudice to the defendants. Hence I answer point No. 1 to 3 in the affirmative.

AS TO POINT NO. 4.

7. As the plaintiffs have made out the factors like prima facie case, balance of convenience and irreparable loss, their application deserves to be allowed. Considering this I pass the following order.

ORDER

1. The application at Exh. 5 is allowed.
2. Defendant No.1& 2, their agents, servants or any body claiming through them are temporarily restrained from creating third party interest in the suit lands till the final decision of the suit.
3. Cost in cause.

Vaduj.

Date :13.12.2017

(R. V. Wanwadi)

Civil Judge,Sr.Dn.,Vaduj.