



ORDER BELOW EXH.10.
(Passed on 05th July, 2024)

1. This is an application filed by the defendants against the plaintiffs under Order 39 Rule 1 and 2 of the Code of Civil Procedure, 1908 for temporary injunction.
2. property No.66/1 admeasuring 280 sq.ft. and 502 sq.ft. respectively situated at Mouje Koli, Tq.Karanja, Dist.Washim is the suit property. The suit property is the ancestral property of the defendants. It is the contention of the defendants that the question of the construction of house by the defendants has not arise at all. The defendant No.1 has applied for sanction of Gharkul in his own house and after considering all the aspects the government has sanctioned Gharkul to him. Thus, the construction of the house was started with the permission of Grampanchayat. It is further contended that property No.66 was owned by the defendant and the plaintiffs have made false entries in Gav Namuna-8. On the basis of these false illegal entries plaintiffs are trying to grab the property of the defendants. Hence, the application is made for the interim temporary injunction.
3. The plaintiffs filed reply to the present application at Exh.11 and denied all the contentions made by the defendants and prayed for the rejection of the application.
4. Following are the points for determination along with my findings there on for the reasons to follow.

Sr. No.	Points	Finding
1.	Whether the defendants have a prima facie case?	No
2.	Whether the defendants would suffer an irreparable loss if the application is rejected?	No
3.	Whether the balance of convenience is in favour of the defendants?	No
4.	What order?	Application is rejected

REASONS

5. It is a well settled principle of law that while dealing with temporary injunction application, it must be seen that three test should be fulfilled and party claiming injunction should come before the court with clean hands. In accordance with settle position of law, it is necessary to find out first test that whether plaintiffs have prima-facie case or not?

6. I have heard Learned counsel Shri. J.M. Khan for the plaintiffs and Learned counsel Shri A.A. Khandagale for the defendants.

As to point No. 01 to 3

7. The defendants have filed counter-claim contending that defendants are the owner and possessor of property No.61/1 which is the ancestral property. It is also contended that there is some overwriting about the measurement figures in the Grampanchayat record regarding property No.66-A. Therefore, the rights of the defendant are necessary to be protected by way of granting permanent injunction.

8. I have perused the pleadings of the parties and the documents filed by the defendants in support of the present application. On perusal of the application, it is nowhere prima facie seen that the plaintiff has obstructed the possession of the defendants. No any specific incident has been mentioned about the obstruction at the hands of plaintiffs. Therefore, I am of the view that there is no prima facie case in favour of the defendants.

9. A bare reading of the counter-claim and the present application would show that the assertion of the defendant in respect of the obstruction by the plaintiffs is vague. No interim relief can be granted on the basis of vague and general statement. In the totality of the circumstances, I find that defendants have to make out a prima facie case. Balance of convenience does not lie in their favour. They will not suffer irreparable loss, if the injunction is not granted. Hence, I answered point No.1 to 3 in negative. Resultantly, application is liable to be rejected. Accordingly, following order is passed.

ORDER

The application at Exh.10 is rejected.

Date: 05/07/2024.

(Supriya N. Pund)
Jt. Civil Judge (Jr. Dn.),
Karanja (Lad).

CERTIFICATE

I affirm that the contents of this P.D.F. file Judgment/ Order are same word to word as per the original order.

Name of Steno. :- D.V. Daware (Stenographer Grade-III)

Court Name :- Jt.Civil Judge (Jr.Dn.) and J.M.F.C.,
Karanja. Dist. Washim.

Date :- 05/07/2024

Order signed by the :- 05/07/2024
presiding officer on

Order uploaded on :- 06/07/2024