

	Reg. Civ. Suit No. 55/2010
	Sunita Shukla -vs- Satish Tamboli & others
	MHYA-1800-0410-2010

ORDER BELOW EXH. 89

This is an application filed by defendant No. 2 to 6 i.e. plaintiff's counter claim against original defendant No. 1 i.e. defendant No. 2 Satish Tamboli of counter claim. It is contention of the original defendant No. 2 to 6 that, the present suit is filed for specific performance of contract. These defendants have filed counter-claim against original plaintiff and prayed for partition and declaration. It is their contention that, as per the application below Exh. No. 86, plaintiff tried to amend the present suit by pointing out that, the suit property is converted from Class-II to Class-I category. The defendant No. 1 Satish has illegally recorded his name in the record of rights. It is their contention that, by taking disadvantage of his name, defendant No. 1 Satish is trying to dispose of the suit property. If, he disposed of the suit property, then both suit and counter-claim become fruitless. Therefore, it is necessary to restrain him by way of injunction. Hence, they prayed for temporary injunction against defendant No.1 Satish Tamboli, who is defendant No. 2 in Counter-claim.

I have heard learned advocate Shri Parode for defendant No. 2 to 6. It is argued by defendants that, as per the documents filed along with Exh. No. 86, it is seen that, the suit property is converted from Class-II to Class-I property. By taking the disadvantage of the same and taking the advantage of his name, defendant No. 1 is trying to dispose of the said property. Therefore, it is necessary to restrain him by way of injunction. Hence, he prayed to issue temporary injunction order against defendant No.1 Satish Tamboli.

2. Defendant No. 1 Satish Tamboli is repeatedly called from 11 am. to 4 pm. None is appeared. It is seen from the record that, since last many years he is absent. It is also seen that, defendant No. 2 to 6 have filed counter claim to the present suit by claiming partition and declaration of ownership. In that counter claim, Satish Tamboli is arrayed as defendant No.2. He has filed pursis at Exh. 42 and admitted the claim raised by these defendants. It is also seen that, the present suit is filed by Sunita Shukla against defendant No. 1 to 6 for specific performance of contract.

3. After perusal of documents filed with Exh. No. 86, it is seen from the order of Tahsildar, Ghatanji that, suit property has been converted from occupancy Class-II property to occupancy Class-I property. It is also seen from the 7/12 extract of suit property that it is only recorded in the name of defendant No. 1 Satish Tamboli. Therefore, considering the order of Tahsildar, Ghatanji dated 28-12-2018 converting occupancy Class-II into occupancy Class-I property and the only name of defendant No. 1 recorded in the 7/12 extract of suit property, the possibility of disposal of the suit property can not be denied at the hands of defendant No. 1 Satish. Therefore, it is necessary to restrain him from disposing the suit property. It is also necessary to mention here that, the present suit is pending since 2010. If defendant No.1 disposes the suit property, then it will create complications in present suit and both suit and counter claim become fruitless. Therefore, to avoid further complications in the present suit, it is also necessary to restrain defendant No.1 from disposing the suit property. Hence, considering above all facts and circumstances following order is passed.

ORDER

1. Application is allowed.
2. Defendant No. 1 Satish Tamboli, who is defendant No. 2 of counter

claim is restrained from alienating the suit property by way of sell, mortgage, tenancy, gift, rent or by any other manner and he is also restrained from creating any third property interest on the suit property till the disposal of the present suit.

3. Defendant No. 2 to 6 are directed to comply as per the provision of XXXIX Rule 3 of Code of Civil Procedure, 1908.

Date : 04/07/2024

(A.A.Kalamkar)
Jt. Civil Judge, Jr. Dn.
Ghatanji, Dist.Yavatmal.