



**Sakhubai Jadhav Vs.
Jayabai Korade & ors.**

ORDER BELOW EXH.05

Present application is moved by plaintiff for relief of temporary injunction against defendants so as to restrain them from obstructing peaceful possession of plaintiffs over suit property and from further alienation or transfer of the same.

02 I have perused the application and documents filed on record. The plaintiffs averred through present application that suit property was belonging to father of defendants and he decided to sell out the same for satisfying his financial needs. The plaintiff agreed to purchase the same and accordingly, one affidavit issued by defendants in spite of agreement to sell or sale deed on 03/12/1998. The possession of suit property was also handed over to the plaintiff on same date. The defendants deceived the illiterate plaintiff and the plaintiff was also unaware about revenue records. However, her name was added in 7/12 extract of suit property. After death of father of defendants, the defendants approach for addition of their names in records of rights and deletion of name of plaintiff. As per order of revenue authorities, name of plaintiff was deleted from records of rights of suit property. However, she has right and interest in the suit property as per affidavit dated 03/12/1998. Hence, she prayed for relief of temporary injunction.

03 The defendants appeared before the court and filed their written statement at Exh. 16. They contended that the suit property was ancestral property of them and the name of plaintiff was appeared in records of rights of suit property without their knowledge. Hence, they applied for deletion of the said entry and it was deleted. They contended that plaintiff has no concern with suit property and has no right or interest in the same. Hence, they prayed rejection of present application.

04 I have perused documents on record and heard Ld. Advocates for both parties. The main suit is filed by the plaintiff for relief of specific performance of contract and perpetual injunction. As per contention of plaintiff, one affidavit was executed in her favour in spite of sale deed or agreement to sell. Her name was entered in 7/12 extract of suit property and afterwards, deleted by the defendants. It appears in the present case that there is no execution of valid document for transfer of suit property. Moreover, the defendants objected for addition of name of plaintiff in suit property. In such situation, relief of injunction in favour of plaintiff seems to be unreasonable. The defendants also filed on record decision in appeal by which mutation entry No. 58 was rejected which is regarding name of plaintiff.

05 The relief of injunction, being equitable and discretionary, cannot be granted mechanically. The essential ingredients such as prima facie case, balance of inconvenience and irreparable loss is required to be proved by the plaintiffs. In the present case, the plaintiff has failed to establish said essential ingredients with cogent

and reliable evidence. Hence, relief of injunction cannot be granted in favour of plaintiff. Accordingly, following order is passed :

ORDER

The application at Exh 05 is rejected.

Date: 05/05/2025

(S.G. Kuvalekar)
Jt. Civil Judge, Jr. Division
Igatpuri.