

ORDER BELOW EXH.67

Perused the application and affidavit filed in support of it vide Exh.68. The respondent no.6 failed to file Say in spite of sufficient opportunity given.

2] Heard Smt. V. M. Thakur, Ld. Advocate for appellants.

3] Today Ld. Advocate for respondent no.6 nor respondent no.6 is present when called at 3.45 pm. As this application is pending since from 10/09/2024, so, considering the urgency, it is taken up for order.

4] It is clear from this application that the appellants are praying to temporarily restrain respondent no.6 from interfering, disturbing and dispossessing the appellants from suit property and further from creating third party interest in the suit property or part thereof.

5] The agricultural lands situated at Warje Malwadi, Tal. Haveli, Dist. Pune such as S.No.37/1B admeasuring 74 Ares, S.No.37/2 admeasuring 1 H 77 Ares, S.No.37/3 admeasuring 13 Ares, S.No.37/7 admeasuring 8 Ares and S.No.40/3 admeasuring 12 Ares are the disputed properties which are referred as the suit properties for sake of convenience.

6] According to appellants, suit properties were self acquired properties of appellant no.1 and her deceased husband Mr. Yallappa,

which is now ancestral property of appellant no.2 to 7, respondent no.1 to 3 and respondent no.12. Accordingly, names of appellants and said respondents were mutated to the revenue record.

7] The appellants had filed Civil Suit No.2494/2010 for declaration and injunction and for restraining them from obstructing their possession in the suit property. During the pendency of the suit, respondent no.1 had executed Sale Deed dated 23/12/2010 in respect of suit property in favour of respondent no.6. Respondent no.9 to 11 had signed this Sale Deed as consenting parties. The suit was dismissed though all the defendants were exparte.

8] It is grievance of the appellants that respondent no.1 had taken disadvantage of illiteracy of appellant no.1 and committed fraud on the appellants and executed the Sale Deed in favour of respondent no.6. The appellants are owners and in possession of suit property. In spite of that respondent no.6 is trying to alienate the suit properties to third party. Thus, if interim relief is not granted, it would cause hardship and prejudice to the valuable rights of the appellants involved in suit property. So, appellants have filed this application.

9] Admittedly Special Civil Suit No.2494/2010 filed by the present appellants is dismissed on merit on 18/10/2013. In this impugned judgment, the appellants are not held to be owners and possessors of the suit property. The Ld. Advocate for appellants submit that the respondent no.6 has got mutated their name to the revenue record of the suit property on the basis of Sale Deed executed by respondent no.1. At this juncture, there is nothing on record to show that appellants are in

possession of suit property except the revenue record which is very old produced on record to show that the names of Parshuram Yallappa Chougule were there to the revenue record. As the appellants have not succeeded in the Ld. Trial Court to prove their possession, it would not be safe to grant temporary injunction application against respondent no.6 in respect of causing interference and obstruction to the possession of the appellants in suit property. But, to avoid further multiplicity of proceeding, respondent no.6 can be temporarily restrained from alienating the suit property till disposal of the appeal. As a result, the following order.

ORDER

- 1] The application is partly allowed.
- 2] The respondent no.6 or anyone on their behalf is temporarily restrained from alienating the suit property by any mode of transfer till final disposal of the appeal on condition that appellants shall make every endeavor to dispose of this appeal within three months by providing private paper book to all the parties including the Court with proper pagination and index, failing which this order will automatically stand vacated.
- 3] Costs in main cause.

(Dictated and pronounced in Open Court.)

Date : 03/01/2025

(D. R. Shetty)
District Judge – 14, Pune