

ORDER BELOW EXH 18 IN R.C.A.No.207/2022
(Maruti Salunkhe Vs. Tukaram Salunkhe etc.,)
(CNR NO.MHSNO10035962022)

1. The appellant/original plaintiff has filed this application for temporary injunction restraining defendant Nos.2 and 7 from making any construction over the suit properties. Respondent Nos.2 and 7 resisted it by filing say at Exh.23. Read the application and say. Heard both sides. Perused the record.

3. It may be noted that the appellant also sought temporary injunction in respect of alienation of the suit properties but the application Exh.7 was also filed in respect of the same prayer and it came to be allowed today by order below Exh.7. Therefore, the prayer in respect of alienation etc., is not considered in this order.

4. In the suit the original plaintiff/present appellant claimed that the suit properties are ancestral and joint family properties of the parties. He also claimed that defendant No.1 illegally and without any consideration sold out some portion out of suit property gat No.29 to defendant No.7, who is none other than wife of defendant No.2. After full trial, Ld.Trial Judge partly decreed the suit by declaring 1/3rd share of the plaintiff in suit properties mentioned in para 1A and 1B of the plaint but dismissed the claim in respect of the sale deed dt. 27.10.2016. The plaintiff filed this appeal against the said

decree. Ld.Advocate for the appellant submitted that he has good case on merit. He submitted that respondent Nos.2 and 7 are making construction in the properties. He further submitted that the photographs filed on record clearly showing that the respondent Nos.2 and 7 are making construction of the house. So far as the said fact is concerned, they have not disputed it. The real question is that whether the said construction is detrimental to the rights of the appellant.

5. It may be noted that the construction of the house in the suit properties cannot be said any destruction or damage to the suit properties. It is improvement of the suit properties. Even if after allowing the present appeal holding the share of the appellant in the said property, no prejudice will be caused to his share. Therefore, it cannot be said that the appellant has prima facie case and balance of convenience is in his favour. He will also not suffer any irreparable loss. Therefore, he is not entitled for any relief. Accordingly, I pass the following order :-

ORDER

1. Application Exh.18 is hereby rejected.
2. Parties shall bear their own cost.
3. The application is disposed of accordingly.

Sangli
dt.22.12.2022

(Purushottam B. Jadhav)
District Judge No.3
Sangli.

CERTIFICATE

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

Name of Stenographer	: S.V.Agnihotri (Steno Grade-I)
Court	: DJ-3 & Addl. Sessions Judge, Sangli.
Date of order	: 22/12/2022
Signed by Presiding officer on	: 22/12/2022
Uploaded on	: 23/12/2022