

ORDER BELOW EXH. NO. 73

This application is for setting aside no say order passed on Exh. 68 against defendant no. 6b, 7 and 8. Heard both sides.

2. Defendants no. 6b, 7 and 8 submitted that the plaintiff gave application at Exh. 68 on 24.06.2019. These defendants failed to give their say on this application within time. Hence no say order was passed. The suit is in respect of immovable property. These defendants have serious allegations against the plaintiff. They are confident that they will get order from this Court. Hence they prayed for setting aside no say order.

3. The plaintiff objected stating that application is not true and legal. No reason for delay is mentioned in the application. The contents of the application are not sufficient for allowing this application. The plaintiff prayed for rejection of application. Alternatively he prayed for heavy costs of Rs. 5,000/- for filing false application and if application is allowed giving last opportunity.

4. Perused record of the case the plaintiff initially filed suit for partition. During pendency of the suit two sale deeds were executed and accordingly the plaintiff made amendment in the plaint. Defendant no. 8 was added and subsequent amendment was also carried out. The last amendment application was given on 24.06.2019 and same was allowed on 27.06.2019. The plaintiff carried out amendment and filed amended copy on 01.07.2019. The said application at Exh. 68 is for temporary injunction against defendant no. 8 from restraining him from obstructing and interfering in possession of the plaintiff over the suit property. In this suit the possession is material aspect and needs to be considered while deciding this temporary injunction application. Defendant no. 8 is purchaser of the suit property and registered sale deeds were executed. No say order was passed on 01.07.2019 when the amended copy was supplied. But on

that day these defendants were absent. After four days this application is moved. Considering such issue between the parties and short spans for deciding this application and as application is moved immediately within four days, natural justice requires to give opportunity to these defendants to put their case. The plaintiff can be compensated for such inconvenience. Hence following order:

ORDER

No say order at Exh. 68 against defendants no. 6b, 7 and 8 is set aside subject to payment of costs of Rs. 400/- by these defendants to the plaintiff.

Date: 05.07.2019

(R. S. DHADAKE)
2nd Jt. Civil Judge, Junior Division,
Barshi, Dist. Solapur.

CERTIFICATE

I affirm that the contents of this PDF file Judgment/Order is same word to word as per the original Judgment/Order.

- (a) Name of the Stenographer : S. V. Kokate
- (b) Court : Sou. R. S. Dhadake, 2nd Jt. C.J.J.D. & JMFC, Barshi.
- (c) Judgment/Order signed by P.O. on : 05/07/2019.
- (d) Judgment/Order uploaded on : 06/07/2019.