



R.C.S.No.01/2018
Gudam Ashok -Vs-
Waman & Ors.

ORDER BELOW EXH.157

1] Read an application. No say filed by any counsel of defendants even though notice is served to them. Heard the learned counsel for plaintiff Adv.Shri.Wadiyalwar. I perused the entire record.

On perusal of record, it appears that the plaintiff filed this suit against total 36 defendants on 04-01-2018 for declaration, mandatory and prohibitory injunction. It is the case of the plaintiff that the plaintiff became the owner of field survey No.10/1 (old), 18 (new) by virtue of will deed executed by Konda Wasudeo Ramayya. The plaintiff Konda Wasudeo Ramayya executed and registered will deed on 09-12-2010 and bequeathed 0.84 H.R. out of survey No.10/1 (old), 18 (new) of total area 2.20 H.R. situated at Mouza Janampalli Chek, Tah.Sironcha, District Gadchiroli.

According to the plaintiff this is the suit property. The learned counsel for plaintiff Adv.Shri.Wadiyalwar argued before the Court that defendants are attempting to create third party interest while suit is pending. He also further argued that the defendant Nos.19 to 22 entering into the possession of plaintiff and digging the said land and also trying to construct permanently upon the suit property. Therefore, he prayed to grant status quo in favour of plaintiff.

2] On perusal of entire suit as well as relevant documents, it

appears to my notice that there is no any documents in favour of

-2-

plaintiff that plaintiff is owner of suit property. However, plaintiff claimed ownership upon the suit property on the basis of will deed executed by one person namely Konda Wasudeo Ramayya. According to plaintiff, there is no any relationship in between plaintiff and Konda Wasudeo Ramayya as well as defendants. The plaintiff filed this suit in the month of January, 2018. Some of the defendants appeared through their counsel but they have not filed any written statements. Plaintiff submitted that defendant No.27 and 28 did not appear due to none service of summons. The temporary injunction application Exh.5 are also pending. In that situation, it is necessary to secure the presence of defendant No.27 and 28. Plaintiff has to take every efforts to serve suit summons to defendant No.27 and 28 those are arrayed as defendants No.27 and 28.

3] Audi alterum partum is the rule of law. The Court has to hear both the parties while deciding any application. Moreover, there is no any provision under Code of Civil Procedure to grant status quo. Therefore, with this observation, it is directed to plaintiff to secure the presence of defendant No.27 and 28 by availing remedies provided under the code of Civil Procedure. I found no substance in this application. Hence, I proceed to pass the following order.

ORDER

The application is rejected.

Sd/-

Sironcha.
Dt.27.11.2018.

(D. D. Fulzele)
Civil Judge (Jr.Dn.),
Sironcha.

