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Order-09
14/02/2022

Plaintiff No.3 present in person and as attorney for the remaining plaintiffs.

Defendant No. 2 present in person.

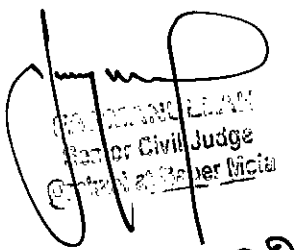
Defendant No. 3 present in person and as attorney for defendant No. 1.

My this order is aimed at disposal of an application for temporary injunction as well as the fate of main case.

Brief facts of the case in hand are that plaintiffs filed a suit for declaration and permanent injunction to the effect that plaintiffs are owner in possession of 20 *jirbs* agricultural property and defendants are inclined to construct a road by destroying the standing crops of plaintiffs on the same property. That alternate road, leading to the village of defendants, exists but inspite of that defendants are bent upon to construct a short cut road in disputed property by destroying the standing crops of plaintiff through tractor. That defendants were repeatedly asked not to construct road and destroy the crops of plaintiffs in the disputed property but they refused, hence instant suit.

Plaintiffs along with the plaint also submitted an application for temporary injunction, wherein, injunctive order was sought to the effect that defendants be restrained from constructing road in the property of plaintiffs.

Defendants were summoned, who appeared before the court and contested the suit of plaintiff as well as application by submitting their written statement and written reply, wherein, they objected the claim of plaintiff on various legal and factual grounds. On factual side defendants contended that they are neither


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constructing new road nor they are destroying the crops of plaintiffs in disputed property rather *Kacha* road is already in existence since long time and the local government is constructing and developing it as a PCC road, hence plaintiffs have got no right to stop the developmental work on disputed road.

Learned counsel for the parties heard and record gone through.

From the perusal of pleadings of both the parties, it is evident that real mater in controversy between the parties is regarding disputed road as it is the contention of plaintiffs that defendants are making road in their agricultural property by destroying their standing crops through tractor while it is the contention of defendants that disputed road is already in existence and they are neither constructing new road nor destroying the crops of plaintiffs rather the local government is developing the disputed road by making it as PCC road. In view of divergent pleadings of both the parties, if the satellite picture/map of the disputed property annexed by the plaintiffs along with the plaint, is perused then it clearly shows that disputed road already exists on the spot, which is a link road leading from the main Dabori road to the village of defendants. Defendants along the written statement have also annexed various photographs of disputed road and the perusal of which also depict that disputed road is already in existence and only developmental work is in progress on disputed road by making it as PCC road. The satellite picture/map of disputed road is an admitted document as plaintiffs have annexed the same along with their plaint and defendants also admit the same as correct. The same document negates the stance of plaintiffs as


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it clearly depicts the existence of road on the spot while it is the contention of plaintiffs that defendants are inclined to construct new road in their agricultural property by destroying their crops. The stance of plaintiffs is also negated by the photographs of disputed road annexed by the defendants along with their written statement as the same photographs show that disputed road is already in existence and only developmental work on the same is in progress. In view of available record, no prima facie case exists in favour of plaintiffs. Similarly, the other two ingredients i.e. balance of convenience and irreparable loss also do not tilt in favour of plaintiffs, hence application for temporary injunction is dismissed.

As from the plaint, it is evident that plaintiffs are seeking declaration and permanent injunction to the effect that defendants be restrained from destroying their crops and constructing road on their property but from the available record, it is an admitted position that road is already in existence, hence no question of destroying crops of plaintiffs and constructing of new road by defendants arises. Being such position, the plaint does not disclose cause of action, hence the plaint is rejected under order 07 rule 11 CPC. No order as to cost.

File be consigned to record room after its necessary completion and compilation.

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