

... Banmankhi (Pune)

In the Court of Amurag, Civil Judge (Jr. Div.), Banmankhi, Pune

T.S No.- 03/2020

Yugal Rishideo _____ Plaintiffs

Versus

Bhikho Rishideo & Others __ Defendants

14.07.2025:- Attendance has been filed on behalf of plaintiff and defendant No. 1. No pairvi has been made by defendant No. 2. Case called out. The Ld. Counsel for plaintiffs and defendants appeared before the court. Heard both the parties on the petition of plaintiff under order 39 rule 1 & 2 CPC dated 28.04.2025 praying for grant of temporary injunction against the defendants till the disposal of the suit for the ends of Justice.

ORDER

The case record is put up for order. The petitioner (plaintiff) has stated that the suit land of Mouza-Kajhi Hridaynagar, Thana No. 52, R.S Khata No. 392, RS Plot No. 4402 an area 27 dismal originally belong to Balgovind Sharma which was donated the land to Bhudan Yagna committee in year 1954. The petitioner has further stated that the after donation of suit land Bhudan Yagna committee was granted Bhudan purcha to the plaintiff after proper inquiry and found the possession of plaintiff on 01.10.1994. The petitioner has further stated that the plaintiff has been residing on some portion of suit land by constructing his residential houses and rest portion of the suit land is used by the plaintiff as Angan Darwaja and Bari-Jhari. The petitioner has further stated that in the meantime on the basis of fordge and fabricated basgit purcha vide Case No. 01/2008-09 an area-06 dismal this defendant encroached 01 dismal land from the South East side andwith help defendant no. 01 his nephew Pramod Rishi son of Bishwanath Rishi also encroached 02 dismal land from same side. The petitioner has further stated that during the pendency of the suit, the defendant from the south direction has put his but know this defendant and his nephew want to permanent construction over the encroached land for this purpose lay down construction material as cement, sand iron rod and tina over the suit land. The petitioner has further stated that the plaintiff file a petition on 20.3.2025 before C.O Banmankhi measurement his Bhudan Land Anchal Amin got 03 dismal land from the southern side encroached by the defendant along with nephew. The petitioner has further stated that the from the above facts it is clear that construction work of defendant no. 01 is in progress if not stopped it will definitely change the nature of suit

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land as such the balance the convenience also lies in favour of plaintiff against these defendants. The petitioner has further stated that the illegal acts of defendant No. 01 is definitely and imminently dangerous, substantial kind and it will caused definitely and irreparable injury to plaintiff which can never compensated with any term of money that from the above facts it is quite clear that the prima facie case in favour of plaintiff the balance of convenience in favour of plaintiff if status-quo is maintain it will not cause any loss of defendant in any way.

It has therefore been prayed that the court may kindly be pleased to grant temporary injunction restraining the defendants from changin physical feature of the suit land till the disposal of the suit for the ends of justice.

The Ld. Counsel for the defendants has not filed any rejoinder on the above mentioned petition and has orally stated that a false and fabricated petition has been filed by the plaintiff and the defendants have stated that they are not constructing anything over the disputed land and they have no objection if the court orders for status-quo over the suit land . The respondents (defendants) further submitted that physical features has been not change of the disputed land by the defendants and has therefore prayed that the court may be pleased to reject the petition of plaintiff dated 28.04.2025 and not to grant temporary injunction over the suit land in the interest of justice.

Heard both the parties on the above - mentioned petition and perused the case record.

Prima Facie Case - As is evident from the aforesaid stands of the parties, the defendants claim their right and title in the disputed suit land. The plaintiff also claims his right and title in the disputed land. It is to be clarified here that at the stage of disposal of an interim injunction petition , question of right or title in the disputed land cannot be gone into by the court nor the same is relevant for purposes of disposal of the injunction petition in as much as the rival claims as to right and title of the parties in the disputed land can only be decided at the trial and not at the stage of disposal of the interim injunction petition . An interim injunction petition has to be decided on the basis of possession of the parties over the disputed land. Both the parties to the suit claims title over the property , hence there is a bonafide question required to be decided in the suit . Hence a **prima facie case exists in the suit .**

Balance of convenience - The plaintiff has also stated in the above-mentioned injunction petition that the plaintiff had filed a petition on 20.03.2025 before C.O Banmankhi for the measurement of his Bhudan Land and Anchal Amin submitted his report in which he found that 03 decimal of land from the southern side has been encroached by the defendant along with his nephew. The certified copy of certificate of Bhudan Yagya

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Committee No. 544998 is available on record in which the name of the petitioner Yugal Rishidev has been mentioned. Xerox copy of certified copy of measurement report of Anchal Amin No. 56/16.04.2025 is also available on record in which he has specifically stated that one decimal of the disputed land has been encroached by Bhikho Rishi from South-Eastern part and two decimal of the land in Khesra 4402 has been encroached by Pramod Rishi in which he is residing in his hut. Hence it shows that the petitioner is facing more inconvenience. Hence Balance of convenience exists in favour of the petitioner.

Irreparable loss- The petitioner has stated that during the pendency of the suit, the defendants wants to do permanent construction over the encroached land and for this purpose they have also acquired construction material such as cement, sand, iron rod and tina over the suit land. However the defendants have stated that they are not constructing anything over the disputed land and they have no objection if the court orders for status-quo over the suit land. The court is of opinion that if the defendants does any permanent construction over the disputed land, it will cause irreparable loss to the plaintiffs but however the petitioner has not adduced any evidence regarding acquiring of construction material such as cement, sand, iron rod and tina over the suit land.

Considering the above discussed facts and circumstances of the case, the court is of opinion that both the parties are directed to maintain status-quo over the suit land and further directed to not to do any kind of construction over the suit land till the disposal of the suit and accordingly the petition under Order 39 Rule 1 and 2 CPC dated 28.04.2025 filed by the plaintiff is **disposed of**.

Put up on 07.08.20 for further proceedings.

A
Civil Judge (Jr. Div.)
Banmankhi

20/8/25
Rishi
Rishi