

MHPA15000042-2024



Presented on : 05.01.2024

Registered on : 05.01.2024

Decided on : 16.07.2026

Duration : 02 Y, 06 M, 12 D.

IN THE COURT OF CIVIL JUDGE JUNIOR DIVISION, SAILU.
(Presided over by G.A.Taral)

R.C.S. No.13/2024**Exh. No. 19**

Minaxi w/o Vitthalsing Raghuwanshi,
Age- 46 years, Occu- Household,
R/o. Govind Baba Chowk, Sailu
Tq. Sailu Dist. Parbhani.

..... **PLAINTIFF**

- V E R S U S -

The Chief Officer,
Municipal Council, Sailu,
Tq. Sailu, Dist. Parbhani.

..... **DEFENDANT**

Claim:- Suit for perpetual injunction.

Adv. for plaintiff : Shri. K.A. Jawalekar
Defendant : L.H. Khona (No.W.S.)

J U D G M E N T

(Delivered on 16th July 2026)

This is the suit for declaration to the effect that, notice issued by defendant bearing O.No. 8523 dated 29.12.2023 be declared as null, void and not binding on the plaintiff or defendant should withdraw the said notice and issue perpetual injunction restraining the defendant not

to make any sort of interference or not to remove the construction in the municipal house No.18 situated at Govind Baba Chauk, Sailu Tq. Sailu Dist. Parbhani.

Material averments in the plaint :-

01. It is the contention of the plaintiff that, the plaintiff is resident of Sailu Dist. Parbhani. Long ago the defendant i.e. Municipal Council Sailu had allotted one plot bearing No.80 admeasuring East-West 13 ft and South-North 6 ft at Govind Baba chauk Sailu to the plaintiff (hereinafter referred to as the "suit property"). For that purpose, one agreement for the period of 11 months was executed between them and it was never renewed. The plaintiff is also using said shop as her entrance to her house. She has also erected one temporary structure of one room over the suit property. The plaintiff is regularly depositing all taxes with the defendant. However, on 29.12.2023 the defendant had issued one notice at the instigation of political persons to remove said temporary structure. There are number of shops on the same road with similar structures, but defendant has not issued such notice to any of them. Therefore, the plaintiff has filed present suit for restraining the defendant not to make any sort of interference or not to remove the construction in the municipal house No.18 situated at Govind Baba chauk, Sailu and also prayed that, notice dated 29.12.2023 be declared as null, void and not binding on the plaintiff. Hence, he prayed that, the suit be decreed with costs.

02. After service of summons the defendant appeared but he failed to file his written statement within stipulated time. Hence, by passing order below Exh.01 on 05.08.2024, the suit be proceeded without written statement of the defendant.

Submissions :-

03. I have heard Mr. K. A. Jawlekar, Ld. Advocate for the plaintiff. He has submitted as per his stance in the application. None appeared for the defendant.

04. The points for determination along with my findings for the reasons discussed below.

Sr. No.	POINT	FINDING
1.	Whether the plaintiff proves that, he is the owner and possessor of the suit property ?	Negative.
2.	Whether the plaintiff prove that, the defendant obstructed over the suit property by removing the construction over the suit property ?	Negative.
3.	Whether the plaintiff proves that, notice O.No. 8523 issued by M.C. Sailu dated 29.12.2023 be declared as null, void and not binding on the plaintiff ?	Negative.
4.	Whether the plaintiff is entitled for relief as claimed ?	Negative.
5.	What order and decree ?	Suit is dismissed with costs.

REASONS

05. In order to substantiate his case, the plaintiff has placed on record following documentary evidence.

Sr. No.	Document	Exh.
1.	Tax receipt	16.
2.	Notice issued by M.C. Sailu dated 29.12.2023	17.

06. In order to substantiate their case, the defendant has failed to filed documentary evidence on record.

07. Besides, the above documentary evidence, plaintiff has

examined herself as PW-1 at **Exh.15**. Then after, by filling pursis at **Exh.18**, the plaintiff has closed her evidence.

08. The present suit is proceeded without written statement against the defendant. Therefore, he failed to adduce his evidence on record.

AS TO ISSUE No.1 to 5 :-

09. These issues are closely interconnected, and the evidence adduced in support of each of them substantially overlaps. Therefore, in order to avoid repetition and for the sake of convenience, they are taken up together for discussion and determination. To substantiate her case, the Plaintiff has examined herself, as her first witness. In her examination-in-chief, she has substantially reiterated the averments made in the plaint.

10. In the case at hand, the plaintiff is claiming to be in possession of the disputed shop on the basis of agreement entered between the plaintiff and the defendant. I have given careful consideration to the pleadings and documents placed on record. It is apposite here to mention that copy of said agreement is not filed with present suit. There is one tax receipt (Exh.16) in the name of the plaintiff dated 13.04.2023. There is original notice (Exh.17) issued by the defendant and it is mentioned that, the plaintiff has not renewed the agreement which was initially for 11 months and erected the temporary structure without permission from the defendant.

11. Bare perusal of the plaint shows that, no permission was obtained from the defendant before erecting any structure on the plot allotted by the defendant. Admittedly the agreement is also not renewed. Neither the plaintiff has renewed the agreement within time nor she has obtained prior permission for erecting the temporary

structure. On backdrop of such circumstances, the plaintiff is claiming relief of equity. As mentioned earlier, there is no infirmity in the notice issued by the defendant. Therefore, the relief in respect of said notice (Exh.17) will be granted. Moreover, the consequential relief of perpetual injunction also cannot be granted. Hence, I answer point Nos. 1 to 4 in the negative and as to point No.5, I proceed to pass following order.

ORDER

01. Suit is dismissed.
02. Decree be drawn up accordingly.
03. Parties to bear their own costs.

Date : 16.07.2026.

(G. A. Taral)
Civil Judge Junior Division,
Sailu, District Parbhani.