MHST020006702026	**REGULAR CIVIL SUIT NO. 210 OF 2026** **Baban Ganpati Kirdat Vs Ravindrakumar Vishwanath Karanjekar**

ORDER BELOW EXHIBIT-26

Plaintiff's Case

By the present application, Defendant Nos.2 and 3 have prayed for staying further proceedings of the present suit under Section 10 of the Code of Civil Procedure read with Section 85A of the Maharashtra Tenancy and Agricultural Lands Act, 1948 (for short, "**the Tenancy Act**"), contending that Tenancy Case No.9 of 2025 instituted by Defendant No.1 is pending before the Tahsildar, Satara, wherein the principal issue regarding the plaintiff's alleged tenancy is directly and substantially in issue. It is therefore contended that until the competent Tenancy Authority finally adjudicates the tenancy issue, this Court has no jurisdiction to proceed with the present suit.

02. The plaintiff has resisted the application vide reply at Exh.31. According to the plaintiff, the present suit is one for simpliciter permanent injunction founded upon his settled possession over the suit property. It is submitted that no declaration regarding tenancy or title has been sought in the suit and, therefore, the jurisdiction of this Court is not barred either under Section 85 or Section 85A of the Tenancy Act. The plaintiff further contends that the defendants themselves have repeatedly

admitted the tenancy and possession of the plaintiff and his predecessor in earlier tenancy proceedings and, therefore, merely because Defendant No.1 has now instituted fresh proceedings under Section 70B of the Tenancy Act, the present suit cannot be stayed. The plaintiff has accordingly prayed for rejection of the application.

03. Heard Ld. Advocate Shri. Umakant Kadam for Defendant Nos.2 and 3, Ld. Advocate Shri.D.R.Bhosale for the plaintiff. The Defendant No.1 yet not appeared in the suit.

04. Perused carefully the application, reply, documents produced by both sides and the authorities cited at the Bar.

Submissions of Ld. Advocate for Defendants:-

05. Ld. Advocate appearing for Defendant Nos.2 and 3 submitted that the entire foundation of the suit rests upon the plaintiff's assertion that he is the tenant of the suit property. According to him, unless the plaintiff first establishes his status as tenant, he cannot claim any right to remain in possession nor seek injunction against the defendants. It is therefore argued that the issue regarding tenancy is directly and substantially involved in the present suit.

06. It is further submitted that Defendant No.1 has already instituted Tenancy Case No.9 of 2025 before the Tahsildar, Satara, seeking a declaration that neither the plaintiff nor his predecessor was ever tenant of the suit property. Since Section 70(b) of the

Tenancy Act confers exclusive jurisdiction upon the Tahsildar to determine the question whether a person is or was a tenant, this Court cannot independently record any finding on that issue. Learned counsel therefore contended that the present suit deserves to remain stayed in view of Section 85A of the Tenancy Act read with Section 10 of the Code of Civil Procedure until the tenancy proceedings attain finality, therefore plaintiff is not entitle for the interim relief also.

07. Learned counsel further submitted that the plaintiff has cleverly couched the plaint as one for permanent injunction. However, according to him, in substance the plaintiff seeks recognition of his tenancy rights through the Civil Court, which is impermissible in view of the statutory bar contained in Sections 85 and 85A of the Tenancy Act. It is also argued that permitting the suit to proceed would result in parallel adjudication by two different forums and may lead to conflicting findings.

08. In support of the above submissions, reliance has been placed upon the following authorities:

(i) Rajaram Totaram Patel v. Mahipat Mahadu Patel & Ors., AIR 1967 Bom 408 (Full Bench);

(ii) Laxmibai Sambha Jadhav & Ors. v. Bharatlal Premchand Gandhi & Ors., AIR 1976 Bom 160;

(iii) Ashwinbhai Manubhai Patel & Ors. v. Chunibhai Venbhai Patel & Ors., AIROnline 2025 Guj 2508; and

(iv) Anathula Sudhakar v. P. Buchi Reddy (Dead) by LRs., (2008) 4 SCC 594,

contending that these authorities unequivocally establish that once the issue of tenancy is pending before the competent authority, the Civil Court must refrain from proceeding with the suit.

Submissions of Plaintiff:-

09. Per contra, the Ld. Advocate appearing for the plaintiff submitted that the entire application proceeds on an erroneous assumption that the present suit seeks adjudication of tenancy rights. According to him, the plaintiff has neither sought declaration of tenancy nor declaration of ownership. The only relief claimed is protection of his existing possession against alleged interference by the defendants. Such a suit, according to the learned counsel, is perfectly maintainable before the Civil Court notwithstanding pendency of tenancy proceedings.

10. It is further submitted that the plaintiff's tenancy is not being asserted for the first time. Learned counsel invited the attention of the Court to the revenue entries and earlier tenancy proceedings to contend that the plaintiff's predecessor Late Ganapati was recorded as tenant by Mutation Entry No.4136 with effect from 10.08.1955 and that after his demise the plaintiff's name came to be entered by Mutation Entry No.7813. It is also pointed out that the plaintiff's sisters thereafter relinquished their rights in favour of the plaintiff by Mutation Entry No.37030. These entries, according to the plaintiff, have remained in force for

decades.

11. Learned counsel further submitted that the documentary record itself demolishes the defendants' present contention. According to him, the judgment in Revision Application No.22 of 1969 clearly records that Defendant No.1 himself had initiated tenancy proceedings against Late Ganapati alleging default in payment of rent in respect of half share of Survey No.204/1. Similarly, the statement of Vishwanath Karanjekar dated 23.07.1979 records that Late Ganapati was tenant in Survey No.204/1 since the year 1945. Even the application dated 02.04.1980 filed by Defendant No.1 before the Additional Tahsildar proceeds on the footing that the plaintiff continued in possession though he was allegedly not cultivating the land personally. It is therefore argued that the present plea denying tenancy altogether is contrary to the defendants' own earlier admissions.

12. Lastly, it is argued that the pendency of proceedings under Section 70B of the Tenancy Act does not *ipso facto* attract Section 10 of the Code of Civil Procedure or Section 85A of the Tenancy Act. Ld. counsel submits that unless determination of tenancy becomes indispensable for deciding the civil suit, the Civil Court retains jurisdiction to proceed with the suit and to protect the possession of a party claiming to be in settled possession. Reliance is placed upon the judgments in ***Laxmi v. Savanta Bapu Mali, Baburao Anant Dhage v. Jagannath Gopala Karale*** and ***Pandurang Damodar Bhoir v. Baddruddin Abbasbhai Patel***, which

according to him squarely govern the present controversy.

Point for Determination :-

13. In view of the rival submissions, the following point arises for determination :

Sr. No.	Points	Findings
1.	Whether Defendant Nos.2 and 3 have established that further proceedings of the present suit are liable to be stayed under Section 10 of the Code of Civil Procedure read with Section 85A of the Maharashtra Tenancy and Agricultural Lands Act on account of pendency of Tenancy Case No.9 of 2025 before the Tahsildar, Satara?	Negative.
2.	What order ?	Application is Rejected.

REASONS

14. Before considering the rival contentions, it would be appropriate to refer to the scope of Section 10 of the Code of Civil Procedure as well as Sections 70(b), 85 and 85A of the Maharashtra Tenancy and Agricultural Lands Act.

15. Section 10 of the Code of Civil Procedure embodies the principle that where the matter in issue in a previously instituted

suit is directly and substantially in issue in a subsequently instituted suit between the same parties litigating under the same title, the subsequent suit should ordinarily remain stayed to avoid conflicting decisions. However, it is equally well settled that Section 10 has to be construed strictly. Unless the entire matter in issue is directly and substantially identical in both proceedings and the earlier court is competent to grant the relief claimed in the subsequent proceeding, Section 10 has no application.

16. Likewise, under Section 70(b) of the Maharashtra Tenancy and Agricultural Lands Act, the jurisdiction to decide whether a person is or was a tenant is exclusively vested in the Mamlatdar/Tahsildar. Section 85 bars the Civil Court from deciding questions which are required to be decided by the authorities constituted under the Tenancy Act, whereas Section 85A provides the procedure to be followed where such an issue arises in a civil suit. Whenever determination of such issue becomes necessary for disposal of the civil suit, the Civil Court is required to refer that issue to the competent Tenancy Authority and thereafter proceed in accordance with the finding returned by such authority.

17. Thus, the bar created by Sections 85 and 85A is not against entertaining every suit in which the word "tenant" is used. The bar operates only where the Civil Court is required to decide an issue exclusively entrusted to the Tenancy Authority. If the relief claimed can otherwise be decided without adjudicating the tenancy issue, the jurisdiction of the Civil Court is not ousted.

Discussion of Authorities relied upon by Defendant Nos.2 and 3

18. Learned Advocate for Defendant Nos.2 and 3 has firstly relied upon the Full Bench judgment of the Hon'ble Bombay High Court in ***Rajaram Totaram Patel v. Mahipat Mahadu Patel & Ors., AIR 1967 Bom 408,*** wherein the Hon'ble Full Bench authoritatively held that whenever the question whether a person is or was a tenant directly and substantially arises for determination in a civil suit, such question falls exclusively within the jurisdiction of the Mamlatdar under Section 70(b) of the Tenancy Act and the Civil Court is precluded from deciding the same by virtue of Section 85. There can be no quarrel with the proposition laid down by the Hon'ble Full Bench. However, the said judgment nowhere lays down that every suit involving an allegation of tenancy must necessarily remain stayed. The principle applies only where adjudication of tenancy is indispensable for granting the relief claimed in the suit.

19. The next authority relied upon is ***Laxmibai Sambha Jadhav & Ors. v. Bharatlal Premchand Gandhi & Ors., AIR 1976 Bom 160,*** wherein that case, the Hon'ble Bombay High Court held that where the relief claimed necessarily depended upon determination whether the tenant had become a statutory purchaser under the provisions of the Tenancy Act, the Civil Court lacked jurisdiction to adjudicate such issue. It was further held that the Civil Court cannot be approached merely for correction of revenue entries when a complete machinery is provided under the Bombay Land Revenue Code. The ratio of the said decision is

equally well settled. However, the facts before this Court stand on an altogether different footing. The plaintiff has not sought declaration regarding statutory purchase, correction of revenue entries or declaration of tenancy. The only substantive relief claimed is perpetual injunction restraining interference with his alleged possession.

20. Defendant Nos.2 and 3 have further relied upon the recent judgment of the Hon'ble Gujarat High Court in ***Ashwinbhai Manubhai Patel & Ors. v. Chunibhai Venbhai Patel & Ors., AIROnline 2025 Guj 2508***, wherein the Hon'ble Gujarat High Court has observed that where the same parties are already litigating the issue of tenancy before the competent Tenancy Authority, the Civil Court cannot independently adjudicate the tenancy issue and should stay the suit under Section 85A until such proceedings attain finality. The proposition enunciated therein cannot be disputed. Nevertheless, the said judgment itself proceeds on the premise that adjudication of tenancy is necessary for deciding the civil proceedings. In the present case, as discussed herein below, no declaration regarding tenancy has been sought by the plaintiff and this Court is not presently called upon to record any finding finally determining the plaintiff's status as tenant. Hence, the ratio of the said judgment does not advance the case of the defendants.

21. The defendants have also relied upon the decision of the Hon'ble Supreme Court in ***Anathula Sudhakar v. P. Buchi Reddy (Dead) by LRs. & Ors., (2008) 4 SCC 594***. On careful

reading of the said judgment, it becomes evident that the Hon'ble Supreme Court has categorically held that where a plaintiff is in lawful possession and his possession alone is threatened, a suit for injunction simpliciter is maintainable. Declaration of title becomes necessary only when there exists a genuine cloud over title or when title itself is the principal issue. Therefore, instead of supporting the defendants, the said judgment prima facie supports the maintainability of a suit based solely on protection of possession.

22. Thus, none of the authorities relied upon by Defendant Nos.2 and 3 lays down as an absolute proposition that every civil suit based on possession should remain stayed merely because tenancy proceedings are pending. On the contrary, each judgment emphasizes that the Civil Court cannot finally determine the tenancy issue, a proposition with which there can be no disagreement.

Discussion of Authorities relied upon by the Plaintiff:-

23. Per contra, the learned Advocate for the plaintiff has relied upon the judgment of the Hon'ble Bombay High Court in ***Laxmi & Ors. v. Savanta Bapu Mali, AIR 1986 Bom 169,*** wherein the Hon'ble High Court has held that merely because a dispute regarding tenancy is pending before the competent authority, the Civil Court does not lose its jurisdiction to protect the existing possession of a party by granting temporary injunction. It has been further held that while considering an application for interim

injunction, the Civil Court is not required to finally adjudicate the question of tenancy, but only to ascertain whether the plaintiff has established a prima facie case regarding his existing possession. Consequently, grant of temporary injunction does not amount to usurpation of the jurisdiction of the Tenancy Court. The ratio laid down therein squarely applies to the facts of the present case, wherein the plaintiff has approached this Court only for protection of his alleged possession.

24. Reliance is next placed upon ***Baburao Anant Dhage & Ors. v. Jagannath Gopala Karale, 1999 (3) ALL MR 414,*** wherein the Hon'ble Bombay High Court has reiterated that exclusion of the jurisdiction of the Civil Court cannot readily be inferred unless the statute expressly or by necessary implication excludes such jurisdiction. It has further been held that where the statute does not confer jurisdiction upon the Tenancy Authorities to adjudicate a particular controversy, the jurisdiction of the Civil Court continues to subsist. The principle laid down in the said judgment fortifies the settled position that the bar under Sections 85 and 85A of the Tenancy Act is confined only to those matters which are specifically entrusted to the Tenancy Authorities and does not extend to every civil dispute merely because tenancy is incidentally pleaded.

25. The plaintiff has also relied upon ***Shri Pandurang Damodar Bhoir v. Shri Baddruddin Abbasbhai Patel, Second Appeal No.263 of 2013, decided on 06.07.2015,*** wherein the Hon'ble Bombay High Court has categorically held that a suit for

perpetual injunction simpliciter based on possession is maintainable before the Civil Court and Section 85 of the Tenancy Act does not operate as a bar merely because a question regarding tenancy may incidentally arise. The Hon'ble High Court further observed that if during trial an issue exclusively triable by the Tenancy Authority becomes necessary for deciding the suit, only that issue is required to be referred under Section 85A, while the Civil Court retains jurisdiction over the remaining issues.

26. On careful consideration of the authorities cited by both sides, it emerges that there is no conflict between the propositions laid down therein. The judgments relied upon by the defendants merely prohibit the Civil Court from finally adjudicating the question whether a person is or was a tenant. On the other hand, the judgments relied upon by the plaintiff recognize the jurisdiction of the Civil Court to protect possession and to entertain a suit for injunction simpliciter without deciding the tenancy issue finally. Thus, the real question is whether adjudication of the plaintiff's tenancy is indispensable for deciding the present suit.

27. The record reveals that the 7/12 extract pertaining to Survey No.204/1 for the period 1953-1957 records the name of Late Ganapati, the predecessor of the plaintiff, in the other rights column as tenant. The said entry has been effected pursuant to Mutation Entry No.4136, which specifically records that the name of Late Ganapati came to be mutated as tenant with effect from 10.08.1955 in respect of Survey No.204/1 belonging to Late

Maruti. Prima facie, therefore, the revenue record has recognized the tenancy of Late Ganapati for several decades.

28. The record further discloses that after the demise of Late Ganapati, the name of the present plaintiff came to be entered by Mutation Entry No.7813 in respect of Survey Nos.204/1A and 204/1B. Thereafter, by Mutation Entry No.37030, the plaintiff's sisters relinquished their rights in favour of the plaintiff. The plaintiff has also placed on record notices issued by the Land Acquisition Authorities in respect of Survey Nos.204/1A and 204/1B, which were admittedly addressed to him. These documents prima facie indicate continuity of the plaintiff's name in the revenue record.

29. More importantly, the plaintiff has produced the judgment delivered in Revision Application No.22 of 1969 dated 26.07.1971. The said judgment reveals that Defendant No.1 himself had preferred revision proceedings against Late Ganapati in relation to half share out of Survey No.204/1 admeasuring 3 Acres 6 Gunthas. It is specifically recorded therein that the landlord had instituted proceedings under Section 25(2) of the Bombay Tenancy and Agricultural Lands Act alleging default in payment of rent by Late Ganapati for the years 1957-58 and 1958-59. Ultimately, the Maharashtra Revenue Tribunal dismissed the revision and remanded the proceedings to the competent authority. Prima facie, therefore, Defendant No.1 himself had, in the year 1969, treated Late Ganapati as tenant in respect of his half share in Survey No.204/1.

30. This assumes significance because the present defence raised by Defendant No.1 is that after partition in the year 1965, Late Ganapati was tenant only in respect of Sadanand's share and never in respect of the share of Defendant No.1. However, if such defence is accepted at its face value, it becomes difficult to reconcile the fact that even after the alleged partition, Defendant No.1 himself instituted tenancy proceedings against Late Ganapati treating him as tenant in respect of his own half share. At this stage, this apparent inconsistency in the defendants' case cannot be ignored.

31. Apart from the aforesaid proceedings, the plaintiff has also relied upon the statement of Vishwanath Karanjekar dated 23.07.1979, wherein it has been specifically stated that Late Ganapati was tenant in Survey No.204/1 since the year 1945 and that he had committed default in payment of rent for the year 1959-60. Likewise, the application dated 02.04.1980 filed by Defendant No.1 before the Additional Tahsildar seeking extinguishment of tenancy under Section 32G of the Tenancy Act also proceeds on the footing that the plaintiff continued in possession of the suit property though, according to Defendant No.1, he was not personally cultivating the same. These documents, prima facie, constitute admissions made by Defendant No.1 and his predecessor regarding the tenancy as well as possession of Late Ganapati and thereafter the plaintiff.

32. The plaintiff has further produced documents relating to proceedings under Section 32G of the Tenancy Act, including

the application dated 04.02.1993, the statement dated 16.08.1993 and the communication dated 01.09.1993 issued by the Additional Tahsildar. These proceedings also indicate that the plaintiff had asserted his tenancy much prior to institution of the present suit. Whether such proceedings ultimately culminated in conferment of ownership is a matter to be adjudicated by the competent authority. However, their existence prima facie negatives the contention of the defendants that the present claim of tenancy is a recent invention.

33. At the same time, it must be clarified that this Court has consciously refrained from recording any finding either regarding the plaintiff's tenancy or regarding the correctness of the rival documentary evidence. Those questions squarely fall within the jurisdiction of the competent Tenancy Authority and shall be decided independently in accordance with law. The above discussion is confined only to the limited purpose of considering whether the pendency of the tenancy proceedings warrants staying the present civil suit under Section 10 of the Code of Civil Procedure read with Section 85A of the Tenancy Act.

34. Having considered the pleadings, documentary material and the authorities cited by both sides, it now remains to be examined whether the conditions prescribed under Section 10 of the Code of Civil Procedure and Section 85A of the Maharashtra Tenancy and Agricultural Lands Act are satisfied so as to warrant stay of the present suit.

35. Section 10 of the Code of Civil Procedure is intended to avoid simultaneous trial of two proceedings wherein the matter directly and substantially in issue is identical. The provision does not contemplate stay merely because some common questions of fact or law arise in both proceedings. Before invoking Section 10, the Court must be satisfied that the entire matter directly and substantially in issue in the subsequent suit is also directly and substantially in issue in the previously instituted proceeding and that the decision therein would substantially conclude the controversy involved in the subsequent suit.

36. In the case at hand, Tenancy Case No.9 of 2025 pending before the Tahsildar, Satara is instituted by Defendant No.1 seeking a declaration that neither the plaintiff nor his predecessor is a tenant of the suit property. Thus, the issue before the Tenancy Authority is confined to the legal status of the plaintiff as tenant under the provisions of the Maharashtra Tenancy and Agricultural Lands Act.

37. On the other hand, the present suit is one for perpetual injunction. The plaintiff has approached this Court alleging that despite his settled possession over the suit property, Defendant No.1 has executed sale deeds in favour of Defendant Nos.2 and 3 and that the defendants have attempted to obstruct and interfere with his possession. The relief sought is only to restrain such alleged interference. Neither declaration of tenancy nor declaration of ownership has been prayed.

38. Thus, though the plaintiff has asserted tenancy as the source of his possession, the principal relief claimed in the suit is protection of possession. The matter directly and substantially in issue before this Court is whether the plaintiff is entitled to protection of his alleged possession against unlawful interference. Conversely, the matter directly and substantially in issue before the Tahsildar is whether the plaintiff possesses the legal status of a tenant under the Tenancy Act. Both proceedings undoubtedly arise out of the same property; however, the issues requiring adjudication are not identical.

39. It is equally significant that the defendants themselves have produced no material to prima facie demonstrate that after the alleged partition of the year 1965, the plaintiff or his predecessor was lawfully dispossessed from the suit property. On the contrary, the documents relied upon by the plaintiff prima facie disclose continuous revenue entries in favour of the plaintiff and his predecessor coupled with earlier proceedings instituted by Defendant No.1 himself recognising Late Ganapati as tenant and alleging default in payment of rent. Whether those documents ultimately establish tenancy or not is a matter exclusively within the province of the Tenancy Authority. However, for the limited purpose of considering the present application, they prima facie indicate that the plaintiff's claim of possession is not *ex facie* frivolous or illusory.

40. The contention of the defendants that mere entertainment of the present suit and interim relief application

would necessarily result in adjudication of the question of tenancy also cannot be accepted at this stage. The suit is still at its initial stage. The written statement of defendant No.1 is yet to be filed and the issues are yet to be framed. Consequently, it is not possible at this stage to conclude that any issue falling exclusively within the jurisdiction of the Tenancy Authority under Section 70(b) of the Maharashtra Tenancy and Agricultural Lands Act has in fact arisen for determination in the suit. Whether such an issue would arise would depend upon the pleadings of the parties and the controversy that ultimately emerges for adjudication. If, upon completion of the pleadings, the Court finds that determination of any issue is exclusively entrusted to the competent Tenancy Authority, it shall proceed in accordance with Sections 85 and 85A of the Maharashtra Tenancy and Agricultural Lands Act.

41. At the present interlocutory stage, this Court is neither required nor competent to record any finding regarding the plaintiff's status as a tenant. The consideration of the application for temporary injunction is confined only to examining whether the plaintiff has established a prima facie case warranting preservation of the existing state of affairs pending adjudication of the rights of the parties. Any observation made while deciding the application for temporary injunction shall be purely prima facie, confined to the disposal of the interlocutory application and shall neither amount to adjudication of the question of tenancy nor bind the competent Tenancy Authority in proceedings under the Maharashtra Tenancy and Agricultural Lands Act. Therefore,

entertaining and deciding the application for temporary injunction at this stage does not amount to usurpation of the exclusive jurisdiction vested in the Tahsildar under Section 70(b) of the said Act.

42. At this stage, it is also necessary to notice that Section 85A of the Maharashtra Tenancy and Agricultural Lands Act does not contemplate an automatic stay of every civil suit whenever tenancy proceedings are pending elsewhere. The provision becomes operative only when the Civil Court finds that the determination of an issue exclusively triable by the Tenancy Authority is necessary for disposal of the civil suit. In such eventuality, only that specific issue is required to be referred to the competent authority. The section does not mandate suspension of the entire civil proceedings irrespective of the nature of relief claimed.

43. In the present case, no such stage has yet arisen. The plaintiff has not sought any declaration regarding tenancy. The Court is presently not called upon to adjudicate whether the plaintiff is or is not a tenant. Consequently, no occasion presently arises either to invoke the reference procedure contemplated under Section 85A of the Act or to stay the suit under Section 10 of the Code of Civil Procedure.

44. For all the aforesaid reasons, this Court is of the considered opinion that Defendant Nos.2 and 3 have failed to establish that the matter directly and substantially in issue in the

present suit is identical to the matter pending before the Tahsildar so as to attract Section 10 of the Code of Civil Procedure. Likewise, no case is made out at this stage for staying the present proceedings under Section 85A of the Maharashtra Tenancy and Agricultural Lands Act. The point No.1 is therefore answered in Negative and in answer of Point No.2 following order is passed.

ORDER

1. The application is hereby rejected.

2. Costs in cause.

MAHENDRA HANUMANT SHITOLE

Digitally signed by MAHENDRA HANUMANT SHITOLE
Date: 2026.07.17 14:09:12 +0530

(M.H.Shitole)

Place: Satara
Date: 17.07.2026.

3rd Jt. Civil Judge Junior Division,
Satara.