

MHAH080006332024



**Shivanjali Bap Dhondibhavu
Dhumal alias Shivanjali Bhr.Datta
Shenakar**

Vs.

Balsaheb Muralidhar Dhumal etc.

ORDER BELOW EXH. 5 IN R.C.S. 303/2024

This is a suit for partition and permanent injunction along with an application filed by plaintiff under Order XXXIX Rule 1 and 2 of the Code Of Civil Procedure(hereinafter,in short referred as 'C.P.C.') seeking temporary injunction against defendant no. 1 and 2 to restrain them or their agent or any person on their behalf from alienating the suit properties by way of gift or sale deed or mortgage by creating third party interest therein. Application is well supported by an affidavit at (Exh.6).

Description of the suit property -

2. An agricultural lands bearing Gat No. 299/2, 318/3, 319/1 situated at village- Dolasane, Tal. Sangamner, Dist. Ahmednagar which are more particularly described in plaint para No. 1. They are described and bounded as mentioned into table as under-

Gat / Survey No.	Area H. R.	Assessment Rs. Pai.	East	South	West	North
299/2	2.38.00 Kharab 0.67.00	1.30	Out of 299	300	Out of 299	298
318/3	1.10.00 Kharab 0.10.00	1.80	Out of 318	319	Out of 318	317
319/1	0.93.00 Kharab 0.04.00	1.15	Out of 319	320	Out of 319	318

(Hereinafter, referred in short as 'the suit properties')

The pith and substance of plaintiff's case is -

3. The plaintiff has filed the present suit seeking relief of partition, possession and permanent injunction in respect of the suit properties. According to plaintiff, the suit properties are hindu joint family ancestral properties of plaintiff and defendant no.1 to 7. Name of deceased Rangubai Muralidhar Dhumal and Hausabai Gopal Dhumal have been entered into revenue record of the suit properties vide Mutation Entry No. 1093. According to plaintiff, Muralidhar Mahadu Dhumal is original predecessor of family of plaintiff and defendant no. 1 to 7. He has first wife Janabai who is defendant no. 8 in the present suit. Muralidhar and Janabai have son namely Dhondiba. Muralidhar and Janabai used to make quarrels frequently. They used to live separately from each other. Janabai is living with her son at her parental home at village – Kotul. Janabai has filed Criminal M.A. No. 38/1978 before Criminal Court, Akole seeking maintenance against Muralidhar. Application was decided on 02.06.1979. The Muralidhar was ordered to pay maintenance of Rs. 200/- per month to Janabai. Janabai look after expenses of education and other duties of his son. She performed marriage of her son with Sangita, who is defendant no. 9 in present suit on 15.05.1995. Dhondibhau and Sangita have daughter namely Shivanjali i.e. plaintiff. She born on 18.10.1996 at village – Kotul. Dhondibhau is died on 09.02.2000 at village – Kotul due to his sickness. Sangita has performed second marriage with Ulhas Dadabhau Bodake. Janabai has performed marriage of plaintiff with Datta Shenkar. After attending majority, plaintiff has sought her

undivided share lying into suit property towards defendant no. 1 and 2. They used to avoid plaintiff. On 15.01.2024 plaintiff met with defendant no. 1 and 2 and sought her undivided share lying into the suit properties. Defendants refused for the same. Defendant no. 1 and 2 threatened plaintiff to sell the suit properties to third person. Plaintiff is in threat that, defendant no. 1 and 2 will sell the suit properties by depriving her from her undivided share lying into the same. Hence, plaintiff has constrained to file present suit. Plaintiff has prima-facie case. Balance of convenience lies in her favour. If application is dismissed, it will cause ir-repairable loss to plaintiff and the vice-versa. Hence, plaintiff has prayed to allow the application.

4. Defendant no.1 appeared and combated suit and filed her common say and written statement at Exh.28. He contested suit on ground that contents of application are false and imaginary. Suit of plaintiff is not tenable. Boundaries of the suit properties are false. He has admitted the genealogy. He has also admitted that original predecessor of plaintiff and defendant's family is Muralidhar. He was died on 28.10.2012. He also admitted that defendant No. 9 Sangeeta has performed second marriage with Ullas Dada Bhau Bodake r/o Mhaswadi. They have denied that defendant No. 8 Janabai had looked after the plaintiff. According to him, he looked after the plaintiff. he also admitted that Janabai has filed Criminal M. A. 38/1978 against Muralidhar seeking maintenance. Application was decided on 2/6/1979 by the Akole Court. He also admitted that plaintiff has married with one Datta Shankar. He also admitted that the suit property is ancestral property of Muralidhar. According to

defendant. No.1, suit is not properly valued. No cause of action arose for plaintiff to file present suit.

5. According to defendant No. 1, the suit properties are ancestral properties of original predecessor of plaintiff and defendants, namely Muralidhar Mahadu Dhumal. Muralidhar has first wife Janabai. Both have son namely Dhondibhau begotten out of their lawful wedlock. He was died on 09.09.2000. He has wife Sangeeta, both have daughter namely Shivanjali that is plaintiff begotten out of their lawful wedlock. After death of Dhondibhau, Sangeeta has performed second marriage with Ullas Dada Bhanu Bodake. Muralidhar has second wife name Rangubai. Both have children namely defendant no.1 Balasaheb, Gopal, defendant No. 6 Kamal, defendant No. 7. Madhuri out of their lawful wedlock. Gopal was died. She has wife namely Hausabai. Defendant number 2 to 5 are children of deceased Gopal. According to defendant No. 1, after death of Murlidhar, name of defendant No. 1 to 7, Rangubai, Hausabai have been entered into revenue record of the suit properties vide Mutation Entry No. 1093. Since then, defendant No. 1 to 7, are cultivating the suit properties and enjoying benefits out of it. Plaintiff and defendant No. 8 have no concern with the suit properties. They have no right and share the suit properties.

6. Muralidhar and Janabai were used to live separately. Janabai has filed an application seeking maintenance before Akole Court. Janabai has received maintenance of Rs. 200/- per month by order of the Court. The compromise took place between Janabai and Muralidhar by intervention of relatives. One time settlement amount of Rs. 1,00,000/- has been given to

Janabai. In return, she gave up her right of seeking further maintenance and rights lying into suit properties. Since then, Janabai is residing at her parental home at village – Kotul. That time, it was agreed that expenses of education, nurture of Dhondibhau has been incurred by Muralidhar. Since then, Dhondibhau is living with Muralidhar. Muralidhar used to look after Dhondibhau. Marriage of Dhondhibhau has been performed with Sangita in the year 1995. Sangita gave birth to plaintiff Shivanjali. Plaintiff is daughter of both Sangita and Dhondibhau. Dhondibhau is died due to cancer. The medical expenses of Dhondibhau has been incurred by defendant no. 1. Since then, Sangita left the house of defendant no. 1. She used to live with plaintiff at her parental home. Defendant no. 1 tried to brought Sangita at her matrimonial home. Sangita refused for the same. Defendant no. 1 has paid maintenance amount of Rs. 1,50,000/- to Sangita. The said meeting was executed by intervention of relatives and father of Sangita. In return, Sangita has gave up her right lying into the suit properties. Muralidhar Mahadu Dhumal is died on 28.10.2012. At the time of entering name of legal heirs of deceased Muralidhar into revenue record of the suit properties, plaintiff and Janabai said that, they have gave up their rights lying into the suit properties, hence there is no need to enter their names into the suit properties. Thereafter, name of legal heirs of deceased Muralidhar have been entered into revenue record of the suit properties vide Mutation Entry No. 1093. The said revenue entry is correct and proper.

7. Plaintiff has not challenged revenue entries. At that time it is agreed that, defendant no. 1 has to look after the

expenses of education, marriage of plaintiff. In return, it is agreed that plaintiff has to gave up her right lying into the suit properties. Defendant No. 1 has performed marriage of plaintiff with Datta Shenkar. Since then, plaintiff residing happily with her husband at her matrimonial home. Defendant No. 1 has incurred expenses of her marriage. Plaintiff is doing job into bank at Katraj, Pune. Since plaintiff has gave up her rights lying into the suit properties, therefore, plaintiff has no right to file present suit.

8. Plaintiff used to come house of defendant no. 1 for celebrating festivals. Defendant no. 1 used to provide financial help to plaintiff. Plaintiff and her husband have constructed building at Ghodekar Mala, Sangamner. Plaintiff has sought Rs. 5,00,000/- for the construction of house from defendant no. 1. Defendant no. 1 and her sisters Madhuri Ramchandra Ghule and Kamal Bhagwan Hande have collected the money and paid in cash to plaintiff in the year 2018. Husband of plaintiff met with an accident, at that time he was admitted at Nashik Hospital. That time, also plaintiff sought financial help from defendant no. 1. That time, defendant no. 1 took hand loan of Rs. 2,00,000/- from his relative Balasaheb Tulashiram Ghule and paid it to plaintiff. Defendant no.1 asked to plaintiff to repay amount of Rs. 7,00,000/- which he had paid to plaintiff in form of financial help. Plaintiff and her husband used to avoid to return the said amount to defendant no. 1. In return, plaintiff has filed present false suit against defendant no. 1. The suit of plaintiff is not within limitation. Plaintiff has no prima-facie case. Balance of convenience lies in favour of defendant no. 1. Plaintiff has filed

present suit with malafied intention. If application is allowed, defendant no. 1 will suffer irreparable loss. Plaintiff does not come with clean hands. In order to cause suffering to defendant no. 1, plaintiff has filed the present suit. Hence, defendant no. 1 prayed to dismiss the suit with compensatory costs of Rs. 25,000/-.

9. Defendant no. 2 to 7 appeared in the suit but, they failed to file their written statement and say. Hence, suit proceeds further without their written statement and say.

10. In spite of giving sufficient amount of opportunity plaintiff, defendant no. 1, 2 and their advocates failed to argue. Hence, in view of age of the suit, application is taken for disposal without their argument.

11. On rival contentions raised by both parties in their pleadings, argument and documentary evidence produced on the record, following points arise for my determination and I have recorded my findings along with reasons are as follows:

Sr. No.	<u>POINTS</u>	<u>FINDINGS</u>
1.	Whether plaintiff has made out prima-facie case ?	Yes.
2.	Whether the balance of convenience lies in favour plaintiff ?	Yes.
3.	Whether any irreparable loss would cause to the plaintiff, if injunction as prayed is not granted ?	Yes.

4.	What order ?	The application is allowed.
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REASONS

12. Advocate for plaintiff has relied on the documents like 7/12 extracts of Gat No. 299/2, 318/3, 319/1 of village – Dolasane, Tal. Sangamner, Dist. Ahmednagar and extract of Mutation Entry No.1093 filed along with list at Exh. 3.

13. On the other hand, defendants did not produce any document on the record.

14. *It is not in dispute that-*

a.	Relation between parties.
b.	Original predecessor of family of plaintiff and defendant no. 1 to 7 is Muralidhar. He is died on 28.10.2012.
c.	Death of Dhondibhau.
d.	Dhondibhau is son of Muralidhar and defendant no.8 Janabai.
e.	The suit properties are ancestral properties of Muralidhar.
f.	Defendant no.8 Janabai has filed Cri. M.A. No. 38/1978 seeking maintenance against Muralidhar before the Court at Akole. Application is allowed on 02/06/1979. Maintenance of Rs.200/- per month has been

	granted.
g.	Plaintiff has married with Datta Shenkar.

AS TO POINT No. 1 TO 3 -

15. All points are interlinked. Hence, in order to avoid repetition of facts, I have discussed them together.

16. The relation between parties is not in dispute. It is not in dispute that, nature and source of the suit properties is ancestral, it belongs to their original predecessor Muralidhar. It is the case of plaintiff that, she has filed present suit for seeking relief of partition, possession and permanent injunction in respect of the suit properties. According to plaintiff, suit property is the Hindu Joint family ancestral property of plaintiff and defendant no. 1 to 7. The original predecessor of plaintiff and defendants family is Muralidhar Mahadu Dhumal. Muralidhar has first wife namely Janabai i.e. defendant no.8. They have begotten son namely Dhondibhau out of their lawful marriage. Muralidhar and Janabai are living separately due to conflicts in between them. Janabai is residing with her son at her parental home Kotul. Janabai has filed Cri. M.A.No. 38/1978 for seeking maintenance against Muralidhar before the Criminal Court at Akole. Accordingly, application was allowed on 02/06/1979. Muralidhar was ordered to pay maintenance of Rs. 200/- per month to Janabai. Janabai took care of upbringing, education of her son. She has performed marriage of her son Dhondibhau with Sangita i.e. defendant no.9 on 15/05/1995. According to plaintiff, Sangita gave birth to her on 18/10/1996 at village Kotul. Dhondibhau died on 09/02/2000 at village Kotul due to sickness. Thereafter,

Sangita has performed second marriage with Ulhas Dadabhavu Bodake. Defendant no.8 Janabai took care of plaintiff. Plaintiff has performed marriage with Datta Shenkar. According to plaintiff, after becoming major she sought her undivided share lying into the suit properties towards defendant no. 1 and 2. They frequently used to avoid to do the same. On 15/01/2024, plaintiff met with defendant no.1 and 2 and sought partition and possession of her undivided share out of the suit properties. Defendants refused for the same and threatened her to sell the suit properties. According to plaintiff, she has undivided share lying into the suit properties. If defendant no. 1 and 2 succeeds, it will cause ir-repairable loss to her.

17. The plaintiff can not succeed, unless showing her right and interest lying into the suit properties. Therefore, it is necessary to see as to what evidence is brought by the plaintiff on the record to hold that, she has right and interest into the suit properties. In support of plea, plaintiff has filed 7/12 extracts of the suit properties, mutation entry extract on the record. Upon it's perusal it is seen that, name of defendant no.1 and 2 have been entered into occupier column of revenue record of the suit properties along with other co-sharers whereas, name of plaintiff is nowhere entered into occupier column of revenue record of the suit properties. Defendant no.1 and 2 are seen in common possession of the suit properties along with co-sharers like Rangubai Muralidhar Dhumal and Housabai Gopal Dhumal.

18. It is settled law that, revenue entries are not prima-facie proof of title. They does not extinguish the title. They are only meant for fiscal purpose. At the same time, section 157 of

Maharashtra Land Revenue Code, 1966 provides that, revenue entries presumes to be genuine unless, contrary is proved. However, defendants admitted the genealogy. They admitted the relation of plaintiff with them. They also admitted that original predecessor of plaintiff and defendants family is Muralidhar. They also admitted the nature and source of the suit properties i.e ancestral. Though, revenue record does not reveal the name of plaintiff, but since defendants admitted the relation with plaintiff and nature and source of the suit properties, it can be prima -facie affirmed that plaintiff has some sort of right and interest lying into the suit properties. Therefore, prima- facie it reveals that plaintiff has right and interest into the suit properties. Similarly, neither party has brought on record that partition in respect of the suit properties already took place. Plaintiff being legal heir of deceased Muralidhar has undivided share into the suit properties. Thus, prima- facie case exists in favour of plaintiff.

19. Therefore, I am of the view that, plaintiff has succeeded to establish prima-facie case about her right and interest into the suit properties. Hence, it is duty of the court to protect the right and interest of plaintiff lying into the suit properties. Defendant and 1 and 2 have no right to alienate interest of plaintiff lying into the suit properties except the due procedure established by law. Defendant no.1 and 2 will not be liable for any hardship, if application is allowed. On the contrary, plaintiff will suffer greater hardship, if application is dismissed. She will be deprived from her right and interest lying into the suit properties. Therefore, balance of convenience lies in favour of plaintiff. By allowing this application, defendant no.1 and 2 will

not suffer any ir-repairable loss. On the contrary, if the application is dismissed, the plaintiff will suffer ir-repairable loss, Therefore, I answered point No. 1 to 3 in affirmative.

AS TO POINT No. 4-

20. The plaintiff has established golden rules that is prima facie case, balance of convenience and ir-repairable loss which are required for issuance of temporary injunction against defendant no.1 and 2. Therefore, the application is deserves to be allowed. Costs of application shall follow the event. Hence, in answer to point No. 4, I pass the following order.

ORDER

1. The application (Exh. 5) is allowed.
2. The defendant no.1 and 2 are temporarily restrained from alienating the suit properties by way of gift or sale-deed or mortgage by creating third party interest therein till final decision of the suit.
3. Costs in Cause.

Sangamner
Date : 04.08.2026

(K. K. Patil)
2nd Jt Civil Judge, Junior Division,
Sangamner.

C E R T I F I C A T E

I affirm that the contents of this P.D.F. file order are same, word to word, as per the original order.

Name of the Stenographer	:	A. M. Polade
	:	2nd Jt. CJJD & JMFC
		Court, Sangamner.
Order Dated	:	04.08.2026.
Order signed by the		
Presiding Officer on	:	05.08.2026.
Order uploaded on	:	05.08.2026.