


MHAH140003382020 	ORDER BELOW EXH.5 IN RCS.NO.218/2020
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This is an application for temporary injunction restraining defendant from interfering and obstructing into the peaceful possession of plaintiff.

Description

1) The property situated in District Ahmednagar, Tal-Newasa at majue Amalner, having agricultural land-

Gut No.	Area		Valuation		Boundaries			
	H	R	Akar	Paise	East	West	South	North
A.189/2 /A	00 H . 82 R out of 1 H 63 R		2 Rs	14	Gut no. 187	Gut no. 41	Gut no. 190	Gut no. 188 and road

Henceforth for the sake of convenience above mentioned property will be referred as 'suit property' hereinafter.

Plaintiffs Case-

2) It is contention of plaintiff that plaintiff filed present suit for perpetual injunction. The suit property is owned and possessed by plaintiff. Plaintiff purchased suit property on 13/11/2017 vide registered sale deed no. 3917. Plaintiff is cultivating the land. Defendant does not have any relation with suit property. But defendant is filing false application to Talathi and Tahsildar and there by troubling plaintiff. Defendant is illegally requesting for inspecting the agricultural crops. Plaintiff is a widow woman. Therefore, defendant is troubling her. Plaintiff was cultivating the land with the help of tractor on 06/02/2020 at

10.00 am, at that time defendant interfered and obstructed plaintiff from cultivating the land. Moreover defendant abused and threatened plaintiff. If defendant continued to interfere into the peaceful possession of plaintiff, plaintiff will suffer irreparable loss. Therefore, plaintiff filed present application.

3) Defendant appeared and filed her say below Exh. 18. she denied all the adverse allegations and stated that Pathaji Bhakare was common ancestor of plaintiff and defendant. Pathaji Bhakare was having two sons, namely Dhondiba and Shantavan, Dhondiba was having one son namely Motilal Bhakare and defendant is wife of Motilal. Shantavan was having one son namely Hiralal Bhakare. Plaintiff is wife of Hiralal bhakare. Deceased Hiralal bhakare has three sons, namely Babasaheb, Rajendra, Sharad. The suit property was allotted to husband and father - in- law of defendant. Since then defendant is having possession over the suit land. But, Motilal and Dhondiba were illiterate. Therefore their names remained to be entered into record of right. Therefore, the property was standing in the name of Shantavan Bhakare falsely. Therefore, in order to deprive defendant from his share from the suit property, deceased Shantavan illegally sold suit property to his grand son in the year 2004 without any possession. Further Babasaheb Bhakare illegally sold the suit property to Indubai Bhakare in the year 2017 without any possession. Plaintiff and her sons do not stay in the suit property and they never have been to the suit property. Therefore there is no cause of action on 06/02/2020. Further defendant is cultivating the suit property by taking water from

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borewell of Shivaji Aynar. Defendant has no source of income except the suit property. Defendant is cultivating the land and plaintiff has no possession over the suit property. Defendant has purchased seeds for the same. Moreover, defendant is a widow woman and she does not have any other source of income. Therefore, she prayed for rejecting the application with compensatory cost of rupees 25,000/- only.

- 4) Heard the argument of Adv. S.S.Thube for the plaintiff and Adv. S.P.Makhone for the defendant.
- 5) Considering the pleadings of both parties, the questions raised, the conclusion thereon and the reasoning behind them are as follows-

Sr.No	Points for Determination	Conculsion
1.	Does the plaintiff prove that she has a prima facie case ?	Positive
2.	Does the plaintiff prove that the balance of convenience lies in favour of the plaintiff ?	Positive
3.	Does the plaintiff prove that she is entitled for relief of injunction ?	Positive
4.	What is the final order ?	As per final order

Reasoning

- 6) On perusal of application, it appears that plaintiff is claiming injunction restraining defendant from interfering, obstructing into the peaceful possession of plaintiff. Therefore, it is necessary for plaintiff to establish his case prima facie. Further it is important that plaintiff should prove his prima facie possession over the suit property. On perusal of documents filed

by plaintiff on record, it appears that plaintiff has filed 7/12 extract of suit property. On the contrary, defendant has denied possession of plaintiff and filed on record affidavit of Achyut Pandarinath Ghavate, General Power of Attorney, Receipts of Swami Samarth Krushi Seva Kendra, Vighnaharta Krushi Bhandar, Bhagyalakshmi Krushi Seva Kendra, Altra Cement, Mutation Entry No. 3088 and 3072 on record.

7. On perusal of receipts, it appears that it only shows the purchase of seeds and necessary agricultural supporting instruments for cultivating land. But it does not establish the possession of defendant over the suit property on the contrary, 7/12 extract shows possession of plaintiff over the suit property. Under such circumstances, I am of the view that prima facie case lies in favour of plaintiff, plaintiff will suffer irreparable loss, if temporary injunction is not granted in his favour. Therefore, balance of convenience lies in favour of plaintiff. Therefore, I proceed to decide point no.1 to 3 as "positive" and proceed to pass following order as to point no.4 as follows -

ORDER

1.	The application is allowed.
2.	Defendant, their agent, servant are temporarily restrained from interfering and obstructing into the peaceful possession of the plaintiff over the suit property till disposal of the suit.
3.	Cost of this application be considered along with main suit.

(Dr. P. R. Sugaonkar)

Jt. Civil Judge (Jr.Divn.), Newasa
Tal.Newasa, Dist.Ahmednagar.

Date : 12.11.2025