



ORDER PASSED BELOW EXH. 5
(Passed on 10.08.2026)

The plaintiff has filed the present application for grant of temporary injunction against the defendant.

2] Heard learned Advocates for both the sides. The plaintiff has filed present suit for declaration and permanent injunction against the defendant. The learned Advocate for the plaintiff submitted that the plaintiff is the owner and in possession of 0.70 H.R. land of Gat No.152, Survey No. 83/2 situated at Mouza Malthana Bk., Tq. Telhara, Dist. Akola. (Hereinafter referred as “suit property”). It is submitted that suit property recorded in the name of one Bhagwandas Sujandas Marwadi who has been unknown since last 60 years. It is submitted that the grand-mother of plaintiff Gokarnabai Purnaji Sawale was in possession of suit property since last 60 years. Likewise, in the 7/12 extract of suit property for the year 1983-84 to 2006-07, the name of Gokarnabai was recorded in column 12 as possessor of suit property. Gokarnabai also paid *Shetsara* of suit property. It is submitted that due to the old age of Gokarnabai, the plaintiff had been cultivating the suit property in favour of Gokarnabai during her lifetime. Therefore, Gokarnabai transferred the suit property in the name of plaintiff by registered Will deed before

her death. Thus, the plaintiff has been in possession of suit property. The defendant has no connection with the suit property. However, the defendant has prepared one bogus *pattekhat* of suit property and on the basis of said *pattekhat*, she filed RCS No.62/2012 against the plaintiff for permanent injunction. Said suit is dismissed by the court. It is submitted that the plaintiff is in possession of suit property and he is cultivating the suit property. It is submitted that on 25.06.2025, when plaintiff went to suit property for cultivation, the defendant created obstruction in the possession of the plaintiff and threatened him to kill. It is submitted that the plaintiff is in possession of suit property and defendant has no right to disturb his possession over suit property. Therefore, the plaintiff prayed temporary injunction against the defendant for not creating obstruction in the peaceful possession of the plaintiff over the suit property.

3] Per contra, the learned advocate for the defendant denied the case of the plaintiff and submitted that she has been in possession of suit property in pursuance of *pattekhat* dated 18.01.1984 which was executed by one Bhagwandas Sujandas Marwadi in consideration of Rs.1300/-. Thus, defendant has been in peaceful possession of suit property since the date of execution of *pattekhat*. It is submitted that on 17.06.2012, the plaintiff forcefully entered on the suit property and tried to create obstruction in the peaceful possession of the defendant. Therefore, the defendant filed RCS No. 62/2012 against the plaintiff, which was dismissed by the court. The defendant preferred appeal against this Judgment in District Court Akot. It is submitted that the

name of Gokarnabai is wrongly mutated in the 7/12 extract of suit property in column 12. The plaintiff has not come before the Court with clean hands. Therefore, the defendant prayed for the rejection of the application.

4] I have heard learned Adv. A. S. Sengar for plaintiff and learned Adv. R. G. Kulkarni for defendant.

5] After considering pleading of both the parties, following points arise for my determination and I have given my findings and reasons there to which are as under -

Sr. No.	Points for determination	Findings
1)	Whether the plaintiff proves the prima facie case ?	Yes.
2)	Whether the balance of convenience lies in favour of plaintiff?	Yes.
3)	Whether the plaintiff will suffer irreparable loss if injunction is refused?	Yes.
4)	What order ?	As per final order.

AS TO POINT NO. 1 :-

6] Whenever party applies for temporary injunction, it has to satisfy Court about existence of prima facie case. Prima facie case means a situation in which Civil Court has to intervene. In the present suit the plaintiff has claimed temporary injunction on the basis old 7/12 extracts

of Gat No. 152 i.e. suit property for the year 1983-84 to 1992-93 and for the year 1993-94 to 2006-2007, Tax receipt dated 19.03.2015, copy of Judgment in RCS No.62/2012. On the other hand, defendant filed on record 7/12 extract, 8A extract of Gat No. 152 dated 13.08.2025, mutation entry No.1164 and one Xerox copy of *pattekhat*.

7] The learned Adv. for the plaintiff argued that plaintiff has been in the possession of 0.70 H.R. land of Gat No.152 i.e. suit property since long time. The defendant has no right to obstruct the peaceful possession of the plaintiffs over the suit property and therefore, temporary injunction should be granted against the defendant.

8] The Ld. Adv. for defendants argued that defendant has been in possession of suit property in pursuance of *pattekhat* dated 18.01.1984 which was executed by one Bhagwandas Sujandas Marwadi in consideration of Rs.1300/-. Therefore, he prayed to reject the application.

9] Perused the record. After perusing the old 7/12 extracts of Gat No. 152 i.e. suit property for the year 1983-84 to 1992-93 and for the year 1993-94 to 2006-2007, it is seen that the name of Gokarnabai was recorded in column 12 as possessor of suit property from 1983-84 to 2006-07. On the other hand, it is the case of defendant that she has been in possession of suit property in pursuance of *pattekhat* dated 18.01.1984, but to prove her possession over the suit property since 18.01.1984, she has not filed any documentary evidence on record. This

is the initial stage of the suit. On the basis of old 7/12 extracts of Gat No. 152 i.e. suit property for the year 1983-84 to 1992-93 and for the year 1993-94 to 2006-2007, and Tax receipt dated 19.03.2015 filed by the plaintiff on record, the plaintiff prima facie succeeded to prove that he has been in the possession of suit property. Further, the question about the validity of *pattekhata* dated 18.01.1984 will be decided after adducing evidence on record and not at this stage.

10] In present case the plaintiff prima-facie succeeded to prove that he is in the possession of the suit property and defendant is disturbing and obstructing his peaceful possession over the suit property. Hence, it can be said that prima-facie case exists in favour of the plaintiff. Therefore, I record my findings as to point No. 1 in affirmative.

AS TO POINTS NO. 2 AND 3 :-

11] I have clubbed discussion of these points together as the discussion is interconnected. As I have already discussed that plaintiff has proved his prima-facie case, hence it can be said that irreparable loss will be caused to the plaintiff, if temporary injunction as prayed for, is not granted in his favour. Balance of convenience also appears to be lies in favour of the plaintiff rather than in favour of the defendant. Thus, at this stage of the matter, the plaintiff has made out case for granting relief of temporary injunction as claimed by him. Hence, I am giving my findings as to point Nos. 2 to 3 in affirmative.

AS TO POINT NO. 4 :-

12] Considering the above said discussion, I am not hesitant to pass the upcoming order. It is to be made clear that, any observation made herein should be taken to be not relevant at the trial on merits. These are only prima-facie observation, subject to adducing of the evidence and proof at trial on merits in the suit. Therefore, in answer to point No.4, I pass the following order.

ORDER

1. The application at Exh.5 is hereby allowed. Defendant, her family members, agents, servants, or any other person on her behalf are hereby temporarily restrained from creating obstruction in the peaceful possession of the plaintiff over the suit property till the final disposal of the present suit.
2. Costs shall follow the events.
(Pronounced in open Court)

Dt. 10.08.2026.

(Smt. Neha V. Sahu)
Civil Judge Jr. Dn., Telhara

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RCS No. 35/2025
Manoj Vs. Kusum

C E R T I F I C A T E

I affirm that the contents of this P.D.F. File Order/Judgment are same, word to word, as per the original Judgment/Order.

Name of the Stenographer	S. R. Adhau
Name of the Court	Civil Judge (J.D.) & J.M.F.C., Telhara.
Date of Order /Judgment	10.08.2026
Order/Judgment Signed by the P.O. On	10.08.2026
Judgment/Order uploaded on	10.08.2026