

MHAU070025522012



Presented on : 24/12/2012
Registered on : 29/12/2012
Decided on : 30/03/2026
Duration : 13Y 3M 06D

**IN THE COURT OF Jt. CIVIL JUDGE J.D. GANGAPUR AT
GANGAPUR DIST. AURANGABAD**

(Presided Over by SMT S.S. AGRAWAL)

Regular Civil Suit No.577/2012

Exh. No.134

1. Lalitabai Madhavrao Bangale,
Age: 52 Yrs, Occ: Household & Agri.,
R/o: Kaygaon, Tq. Gangapur,
At Pre. 10, Shivajinagar, Gangapur,
Tq. Gangapur, Dist. Aurangabad

... PLAINTIFF

VERSUS

1. Popat Magan Birute,
Age:-42 Yrs, Occ: Service,
R/o: Amalner, Post. Kaygaon,
Tq. Gangapur, Dist. Aurangabad.
2. Rukhmanbai Parasram Pandure,
Age:-57 Yrs, Oc: Household and Fish selling,
3. Zhumbarbai Dhondan Birute,
Age:-50 Yrs, Oc: Household and Fish selling,
Both R/o: Kaygaon, Tq. Gangapur,
Dist. Aurangabad.

.... DEFENDANTS

Claim:- Suit for Perpetual Injunction.

-: APPEARANCE :-

Shri. D. K. Taru Ld. Advocate for the plaintiff

Shri. D. B. Kurhe Ld. Advocate for the defendant Nos.1 to 3

J U D G M E N T
(Decided on 30/03/2026`)

The present suit is filed by the plaintiff seeking a decree of permanent injunction restraining the defendants from causing obstruction or interference with her peaceful possession over agricultural land bearing Gut No. 15/1 total admeasuring 2 H 55 R out of it, to the extent of 1 H 95 R situated at village Kaygaon, Taluka Gangapur Dist. Aurangabad bounded by,

East: Land Gut No.15/2 and plaintiff's land and old house,

West: Land of Chandrabhagai Murlidhar Bhoge,

South: Open plot, defendants Nos.2 and 3 residential house and thereafter Pune-Aurangabad Highway,

North: Land of Bhangwan Madhavrao Bangale,

(hereinafter referred to as **“the suit property”**).

PLAINTIFF'S CASE IN NUTSHELLS AS UNDER:-

02) The plaintiff contends that she purchased the suit property from its previous owners through registered sale deeds executed from the year 1986 onwards. After execution of the said sale deeds, mutation entries were effected in the revenue record in her name. Her name has been continuously reflected in the 7/12 extracts. According to the plaintiff, since the date of purchase, she has been in peaceful possession and cultivation of the suit property and has been enjoying its agricultural income. The

plaintiff further contends that the defendants are residents of the same village and their lands are situated in the vicinity of the suit property. Due to the increasing value of the land situated near the highway, the defendants started making attempts to encroach upon the suit property.

03) The plaintiff specifically pleaded that on 23.12.2012, when she and her husband were carrying out agricultural operations on the suit property, the defendants came there and obstructed them, claiming rights over the said property and threatening to dispossess them. Therefore, the plaintiff filed the present suit seeking protection of her possession by way of permanent injunction. Hence, this suit.

Defence in Short:-

04) The suit summons duly served to defendant Nos.1 to 3. They appeared in the suit and filed their written statement vide Exh.50 and 51 respectively, and contested the suit. They denied all the contentions of the plaintiff. According to the defendants, the plaintiff is not the owner or possessor of the suit property. The wife of defendant No.1 has purchased 5 gunthas of land from the same survey number, and therefore the plaintiff is attempting to claim land which does not belong to her. The sale deeds relied upon by the plaintiff are not binding upon the defendants. Mutation entries standing in the name of the plaintiff do not establish actual possession. The defendants also contended that the plaintiff had earlier filed a suit regarding the same property which came to be dismissed, and therefore the present suit is not maintainable. Hence, the defendants prayed that the suit be dismissed with compensatory costs of Rs.25,000/-.

05) On the basis of pleadings of both the parties, my Ld.

Predecessor framed issues Vide Exh.52, of which, I have recorded findings thereon with the reasons discussed as follows :-

Sr. No.	<u>ISSUES</u>	<u>FINDINGS</u>
1.	Does the plaintiff proves that she is the owner and possessor of whole suit property ?	In the affirmative.
2.	Does the plaintiff proves the obstruction at the hands of defendants as contended in the plaint ?	In the affirmative.
3.	Whether the suit is hit by the principle of non-joinder of necessary parties ?	In the negative.
4.	Whether the plaintiff is entitled for the relief of injunction as prayed for ?	In the affirmative.
5.	What order and decree ?	As per final order. The suit is decreed with costs.

EVIDENCE

06) The plaintiff examined herself and one supporting witness. She produced documentary evidence including Registered sale deeds, Certified copies of 7/12 extracts, Mutation entries, Panchanama and revenue records. The defendant Nos.1 to 3 examined witnesses and also filed documentary evidence in support of their defence.

Oral Evidence by the plaintiff :

<u>Sr. No.</u>	<u>Name of the Witness</u>	<u>Relevance</u>	<u>Exhibit</u>
1.	Lalitabai Madhavrao Bangale (PW-1)	Plaintiff	Exh.53
2.	Madhavrao Sandu Bangale (PW-2)	Witness	Exh.97

Documentary Evidence by the plaintiff :

<u>Sr.No</u>	<u>Details</u>	<u>Exhibit</u>
01.	7/12 Extract of Land Gat No.15/1 (1987-97)	Exh.54
02.	7/12 Extract of Land Gat No.15/1 (1997-2010)	Exh.55
03.	7/12 Extract of Land Gat No.15/1 (2011-12)	Exh.56
04.	Mutation Entry No.465/1986	Exh.57
05.	Mutation Entry No.481/1987	Exh.58
06.	Mutation Entry No.500/1987	Exh.59
07.	Mutation Entry No.543/1989	Exh.60
08.	Mutation Entry No.577/1990	Exh.61
09.	Mutation Entry No.616/1989	Exh.62
10.	Mutation Entry	Exh.63
11.	Mutation Entry No.778/1994	Exh.64
12.	Mutation Entry No.810/1995	Exh.65
13.	Mutation Entry No.811/1995	Exh.66
14.	Mutation Entry No.816/1995	Exh.67
15.	Mutation Entry No.959/1998	Exh.68
16.	Mutation Entry No.1095/1999	Exh.69
17.	Mutation Entry No.1361	Exh.70
18.	Sale deed No.1710/1986 dated 28/07/1986	Exh.72
19.	Sale deed No.327/1987 dated 06/03/1987	Exh.73
20.	Sale deed No.1524/1987 dated 29/06/1987	Exh.74
21.	Sale deed No.180/1989 dated 02/02/1989	Exh.75
22.	Sale deed No.57/1990 dated 08/01/1990	Exh.76

23.	Sale deed No.3657/1990 dated 21/12/1990	Exh.77
24.	Sale deed No.2179/1994 dated 11/07/1994	Exh.78
25.	Sale deed No.2191/1994 dated 12/07/1994	Exh.79
26.	Sale deed No.480/1995 dated 14/02/1995	Exh.80
27.	Sale deed No.645/1995 dated 28/02/1995	Exh.81
28.	Sale deed No.1641/1999 dated 08/07/1999	Exh.82
29.	Letter of circle inspection dated 29/11/2012	Exh.83
30.	Panchnama dated 27/11/2012	Exh.84
31.	7/12 Extract of land Gut No.15/1 (2010- 16)	Exh.85
32.	Order of S.D.O. Vaijapur dated 29/03/2016	Exh.86
33.	Order of Addl. Commissioner dated 27/04/2018	Exh.87
34.	Evidence closing pursis	Exh.98

Oral Evidence by the defendant :

<u>Sr. No.</u>	<u>Name of the Witness</u>	<u>Relevance</u>	<u>Exhibit</u>
1.	Popat Magan Birute (DW-1)	Defendant	Exh.99
2.	Kadu Parasram Pandure DW-2)	Witness	Exh.100

Documentary Evidence by the defendant :

<u>Sr.No</u>	<u>Details</u>	<u>Exhibit</u>
01.	Certified copy of RCS No.275/1993 along with order dated 10/03/1998	Exh.103/A
01.	Evidence closing pursis	Exh.104

ARGUMENT

07) Heard Shri. D. K. Taru, the learned Advocate for the plaintiff and also perused written argument filed vide Exh. 131. The learned Advocate for the plaintiff argued that the plaintiff has produced registered sale deeds and revenue records clearly establishing her title and possession over the suit property. It is further submitted that the entries in the record of rights stand in the name of the plaintiff for several years and therefore a presumption arises regarding her possession. The learned Advocate further argued that the defendants have not produced any documentary evidence showing their ownership or possession over the suit property. Hence the plaintiff is entitled to protection of her possession. In support of their argument they also relied upon Judgment of the Hon'ble Bombay High Court of **Govind Anand Goltekar Vs. Dashrath Deoba Gotlekar** 2006 (2) AIR (BOM) 174 and **Blenchi Perira Vs. Himalaya Parvatiya Co-operative Housing Society Ltd.** (1995) 1 BCJ 468 at pp 470 473

08) Heard Shri. R. H. Kurhe, the learned Advocate for the defendant Nos.1 to 3 and also perused written argument filed on behalf of the defendants vide Exh.133. The Ld. Advocate for defendants argued that the plaintiff has not proved actual possession over the suit property. It is further contended that the wife of defendant No.1 has purchased a portion of land from the same survey number and therefore she is a necessary party. It is also argued that the plaintiff had previously filed a suit

concerning the same property and therefore the present suit is not maintainable. Accordingly, prayed for dismissal of the suit.

REASONS

As To Issue No.1:-

(Ownership and possession over the suit property)

09) At the outset, it is necessary to examine whether the plaintiff has established her title as well as lawful possession over the suit property by leading cogent and reliable evidence.

Documentary Evidence of Title

10) The plaintiff has produced on record several registered sale deeds executed in her favour from the year 1986 onwards. These documents are primary evidence of transfer of ownership. On this point the plaintiff has relied upon the ratio led down in ***Govind Gotlekar (cited Supra)*** that a registered sale deed carries a presumption of genuineness. The Hon'ble Bombay High Court in this case has categorically held that once a party produces a registered document, the burden shifts upon the person challenging it to prove that it is not genuine or not binding. In the present case, the execution of the sale deeds has not been specifically denied by leading rebuttal evidence. No evidence has been produced by the defendants to show fraud, illegality, or invalidity of the documents. Therefore, the sale deeds produced by the plaintiff inspire confidence and establish her prima facie title over the suit property.

Revenue Records Supporting Title and Possession

11) The plaintiff has further produced certified copies of 7/12 extracts covering several years and mutation entries. These documents

consistently reveals the name of the plaintiff in the record of rights. Under the settled legal position, entries in the revenue record carry a presumption of correctness unless rebutted by strong and cogent evidence. In the present case, the defendants have not produced any contrary revenue entries. There is no evidence showing that the entries in favour of the plaintiff have been set aside by any competent authority. Thus, the revenue record corroborates the plaintiff's claim of ownership and possession.

Oral Evidence and Its Evidentiary Value:-

12) The Plaintiff has entered the witness box and has deposed regarding her purchase of the suit property, her continuous possession and cultivation and enjoyment of the produce from it. Her testimony has remained consistent and has not been materially shaken in cross-examination. The supporting witness examined by the plaintiff has also corroborated her version regarding possession. On the contrary the defendants have not produced any independent witness to prove their possession. Their oral evidence is not supported by documentary proof. Thus, the oral evidence led by the plaintiff further strengthens her case.

Burden of Proof and Shifting Onus:-

13) As per Sections 101 and 102 of the Evidence Act the initial burden lies on the plaintiff to prove her case. Once the plaintiff discharges this burden, the onus shifts to the defendants. In the present case, the plaintiff has discharged her burden by producing sale deeds and revenue records. Therefore, the onus shifted upon the defendants to prove that they have a better title or lawful possession. However, the defendants have failed to produce any title document. They have not established any lawful right over the suit property. Hence, the defendants have failed to discharge the onus cast upon them.

Presumption of Possession in Case of Open Land

14) The suit property is an open agricultural land. The plaintiff has relied upon the Judgment of the Hon'ble Bombay High Court in ***Blenchi Pereira (cited Supra)*** in which the Hon'ble Court has held that *in respect of open land, possession normally follows title unless the contrary is proved*. Applying this principle, the plaintiff has established her title through registered documents. Therefore, a legal presumption arises that she is also in possession. To rebut this presumption, the defendants were required to prove continuous, exclusive, and lawful possession. However, no such evidence has been produced.

Failure of Defendants to Prove Their Case

15) The defendants have taken a plea that the wife of defendant No.1 has purchased a portion of land. However, no reliable documentary evidence has been produced to establish such title affecting the suit property. Even assuming such purchase, it does not displace the plaintiff's title over the entire suit property. Mere denial of the plaintiff's title or possession is not sufficient in law.

16) On cumulative appreciation of evidence, it appears that the plaintiff has produced registered title documents. The plaintiff's name is reflected in long-standing revenue records. Oral evidence supports her possession. The defendants have failed to produce any convincing rebuttal evidence. Thus, the evidence led by the plaintiff is consistent, reliable, and legally sufficient, whereas the defence is unsupported and weak. In view of the above discussion, I hold that, the plaintiff has successfully proved her title over the suit property, and the plaintiff has also established her lawful possession thereof. Accordingly, Issue No.1 is answered in the Affirmative.

AS TO ISSUE NO.2:-***(Interference of threat in the possession of the suit property)***

17) The present issue relates not to title, but to actual interference or threat to possession, which is the sine qua non for granting relief of permanent injunction under the Specific Relief Act. It is well settled that even a lawful possessor is entitled to protection against unlawful interference. Therefore, once possession is established, the Court must examine whether there exists real, tangible, and actionable interference. The plaintiff has specifically pleaded that on 23.12.2012, she along with her husband went to the suit property for agricultural work. At that time, the defendants came to the suit property. They obstructed the plaintiff and attempted to assert their own claim over the suit property. They also threatened the plaintiff with dispossession. These pleadings are specific as to date, nature of act, and persons involved, and therefore satisfy the requirement of material particulars.

18) The plaintiff, while deposing before the Court, has reiterated her presence on the suit property on the date of incident, the act of obstruction by the defendants and the threat extended by them. Her testimony is consistent with her pleadings and does not suffer from material contradictions. It is significant to note that the plaintiff has withstood cross-examination. No material omissions or contradictions have been elicited so as to discredit her version. Thus, her evidence inspires confidence. The plaintiff has examined a supporting witness i.e. PW-2 Madhavrao, who has corroborated the possession of the plaintiff over the suit property and the incident of obstruction by the defendants. The testimony of this witness lends independent corroboration to the plaintiff's

case. Nothing substantial has been brought on record in cross-examination to discard this testimony.

19) The defendants have denied the allegation of interference. However, it is important to note that the defendants have not produced any documentary evidence to show their possession over the suit property. They have not established any lawful right entitling them to enter upon the suit property. In absence of such proof, their presence on the suit property itself becomes prima facie unauthorized, thereby supporting the plaintiff's allegation of interference.

20) The law is well settled that for granting injunction, the plaintiff is not required to prove actual dispossession. Even a threat of dispossession or obstruction is sufficient. The Hon'ble Supreme Court in ***Anathula Sudhakar*** Vs. ***P. Buchi Reddy*** reported in (AIR 2008 SC 2033) has held that *a person in lawful possession can maintain a suit for injunction against interference even without seeking declaration of title.* Further, in ***Rame Gowda*** Vs. ***M. Varadappa Naidu***, reported in (AIR 2004 SC 4609) in this case the Hon'ble Court has held that *possession, even if without title, is protected against unlawful interference.* Thus, the threshold for proving interference is not as high as proving title, but must show credible threat or obstruction.

21) So also defendants have not produced any rebuttal evidence on record. The defendants have failed to produce any complaint lodged by them asserting their possession, any documentary record supporting their claim or any independent witness discrediting the plaintiff's version. Mere denial, without supporting evidence, is insufficient to rebut a consistent and

corroborated version of the plaintiff. In civil cases facts are proved on the basis of preponderance of probabilities. In the present case, the plaintiff's version is consistent and supported by evidence. The defendants' version is unsupported and improbable. Therefore, the balance of probabilities tilts in favour of the Plaintiff. Therefore, this Court holds that, the plaintiff has successfully established that the defendants caused obstruction and interference with her possession. Accordingly, Issue No.2 is answered in the Affirmative.

AS TO ISSUE NO. 3 :-
(Non-joinder of necessary party)

22) The defendants have raised an objection that the wife of defendant No.1, who is alleged to have purchased 5 gunthas of land from the same survey number, has not been impleaded as a party. Therefore, according to the Defendants, the suit is bad for non-joinder of necessary party and hence not maintainable. This objection requires examination in light of the settled legal principles governing necessary and proper parties. The law is well settled that a necessary party is one in whose absence no effective decree can be passed and a proper party is one whose presence may be necessary for complete adjudication, but whose absence does not render the suit defective. In a suit relating to property, only those persons are necessary parties against whom relief is claimed or whose rights are directly affected. Thus, the test is whether an effective decree can be passed in the absence of such party; and the party sought to be added has a direct and substantial interest in the subject matter.

23) The present suit is one for permanent injunction simpliciter. In such suits, the Court is primarily concerned with possession and

interference. The scope is limited to determining whether the plaintiff is in possession and whether the defendants are causing obstruction. It is not a suit for declaration of title, or partition, or adjudication of competing ownership claims of third parties. Therefore, the requirement of joining all possible claimants does not arise. In the present case, the plaintiff has sought relief only against the defendants who allegedly interfered with her possession. No relief is claimed against the wife of defendant No.1. It is a settled principle that a person against whom no relief is claimed is not a necessary party. Therefore, the absence of such person does not render the suit defective. The defendants have merely contended that the wife of defendant No.1 has purchased some portion of land. However, no documentary evidence has been produced to establish that such land overlaps with the suit property. It has not been shown that any decree passed in this suit would affect her independent rights. The Defendants have not specifically pleaded how the absence of such party would prevent effective adjudication of the dispute. Thus, the plea of non-joinder remains vague and unsubstantiated. In the present case, the dispute is between the plaintiff and the defendants regarding interference. The Court can effectively restrain the defendants from interfering with the plaintiff's possession. Such decree can be executed without the presence of the alleged third party. Therefore, it cannot be said that no effective decree can be passed in her absence. As per the settled principles under Order I Rule 9 of the Code of Civil Procedure, No suit shall be defeated by reason of mis-joinder or non-joinder of parties, except in the case of non-joinder of a necessary party. In the present case, the alleged person is at best a proper party, but not a necessary party. Hence, the suit is not liable to be dismissed on this ground.

24) The defendants have also contended that the plaintiff had earlier filed a suit which was dismissed. The certified copy of the Judgment or order of the previous suit has been produced. The suit is dismissed in default due to absence of plaintiff. The dismissal of suit in default does not operate as res-judicata as there is not adjudication on merits or rights of parties are not finally decided. Dismissal in default is not a decision on merit. The defendants have not established whether the earlier suit was decided on merits. There is no material to show that the present suit is barred by principles of res judicata. Therefore, this contention also fails. The burden to prove that the suit is not maintainable lies upon the defendants. In the present case, the defendants have neither established the necessity of the alleged party, nor proved any legal bar to the suit. Thus, the burden cast upon them remains undischarged. Therefore, the objection regarding non-joinder and maintainability is devoid of merit. In view of the above discussion, this Court holds that the defendants have failed to prove that the suit is bad for non-joinder of necessary parties or is otherwise not maintainable. Accordingly, Issue No.3 is answered in the Negative

AS TO ISSUE NO.4 :-
(Entitlement of relief)

25) The present issue pertains to the final relief of permanent injunction. While deciding this issue, the Court is required to examine whether the plaintiff has satisfied the essential requirements for grant of injunction under the Specific Relief Act, 1963, particularly existence of lawful possession, proof of interference or threat of interference and absence of any legal bar to grant such relief. This issue must be decided in light of the findings recorded on Issue Nos. 1 to 3. While deciding Issue No.1, this Court has already held that the plaintiff has proved her title

through registered sale deeds. She has established her possession over the suit property. Further, while deciding Issue No.2, this Court has held that the defendants have caused interference and obstruction with the plaintiff's possession. Thus, the foundational requirements for grant of injunction stand satisfied. The defendants have failed to establish any better title over the suit property, or any lawful possession justifying their entry upon the land. Mere assertion of a claim, without supporting evidence, does not create any legal right. Therefore, the acts of the defendants amount to unauthorized interference. Interference by the defendants would result in disruption of cultivation and loss which cannot be adequately compensated in monetary terms. Therefore, it is apparent that refusal of injunction in such circumstances would cause irreparable injury to the plaintiff. Further while deciding Issue No.3, this Court has already held that the suit is maintainable. There is no defect of non-joinder or legal bar. Therefore, there exists no impediment in granting relief to the plaintiff. In view of the above discussion, this Court holds that the plaintiff is entitled to the relief of permanent injunction restraining the defendants from interfering with her peaceful possession over the suit property. Accordingly, Issue No.4 is answered in the Affirmative.

AS TO ISSUE NO. 5 :-

(order and decree)

26) As I answered issue Nos. 1, 2 and 4 in the affirmative, the plaintiff proved that she is owner and in possession of the suit property and defendants obstructed and interfered in her peaceful possession, therefore, they may be permanently restrained from causing any obstruction or interference in the possession of the plaintiff over the suit property. So also, in view of finding to Issue No.3, the suit of plaintiff is maintainable.

Therefore, in view of above reasoning the plaintiff is entitled for relief claimed. The suit deserves to be decreed. As due to conduct of defendants, the plaintiff has to knock the doors of the Court for Justice. Her valuable time and money is consumed in contesting suit. Therefore, the suit deserves to be decreed with costs. In answer to issue No.5, I pass the following order.

ORDER

1.	The suit is decreed with the costs.
2.	Defendant Nos.1 to 3, their agents and servants are permanently restrained from causing obstruction and interference in the peaceful possession of the plaintiff over the suit property i.e. agricultural land bearing Gut No. 15/1 total admeasuring 2 H 55 R out of it, to the extent of 1 H 95 R situated at village Kaygaon, Taluka Gangapur Dist. Aurangabad.
3.	Decree be drawn up accordingly.
	Dictated and pronounced in the open Court.

Date : 30/03/2026

(S.S. Agrawal)
Jt.Civil Judge (J.D.) Gangapur.
Dist. Aurangabad.

CERTIFICATE

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

Name of the Stenographer	S. M. Shaikh
Name of the Court	S.S. Agrawal, Jt. Civil Judge Dn. & J.M.F.C., Gangapur
Judgment Date	30/03/2026
Judgment signed by the P.O.on	04/04/2026
Judgment uploaded on	04/04/2026