



ORDER BELOW EXH. 05.
(Passed on Date – 11.02.2025)

. This is an application filed for temporary injunction in respect of agriculture land gut No. 343 adm. 17 R to the extent of 3 R bearing GP No. 674 Situated at Golegaon (Khurd), Tq-Sillod, Dist-Aurangabad.

(for the sake of brevity hereinafter referred to as 'Suit Property').

2. It is submitted that, plaintiff is owner and possessor of two shops constructed in suit property and residue portion of the same. Earlier, land gut No. 343 bearing old survey No. 78/3 adm. 29 R was in possession and ownership of plaintiff's uncle namely, Taruba Pandu Bankar. Through the very survey number Ajintha-Jalgaon straight highway is passed. As such, the area of suit property is decreased to 17 R from 29 R. The way, in partition plaintiff's father Parbhat Pandav Bankar got the very land. After demise of his father plaintiff is cultivating the said land.

3. On dated 27.04.2012 by old age plaintiff's father demised away living behind plaintiff, his brothers and sisters. Accordingly, in the record of right of suit property mutation entry No. 1266 is effected. Since then, plaintiff is *Karta* of the family and in the very capacity he has filed the very suit. 7/12 extract of suit property for the year of 1959-60 to 1970-71 and mutation entry No. 1266 is filed on record.

4. As, Jalgaon-Aurangabad State highway passed through land gut No. 343, is divided in two parts comprising one big part and another small part adm. 3.5 R. 0.5 R land from gut No. 343 and 0.5 R land from gut No. 342 on the common boundary of both gut No. is given for the cremation

ground for cobbler community by Tahsildar Sillod. As such, in possession of plaintiff 3 R land adjoining to road is in possession of plaintiff. As, the very land is adjoining to village plaintiff has recorded in the record of Grampanchayat to extract 8. the way, Grampanchayat house property No. 674 is given to it.

5. Since last 50 to 60 years plaintiff is in possession of suit land and his name is recorded in 7/12 extract and extract No. 8. Defendants are not having in concern with any suit property. In the year 2013-14 plaintiff has constructed two shops in the northern 1 R area of suit property. Even, he has availed electric connection for those shop. His electric meter customer No. is 497130009699. Out of two shops one shop is given on rent to Aajubai borewell and in one shop plaintiff son Samarth is carrying stall of Sugarcane Juice. The way, two R open land is lying there.

6. When plaintiff was in need of money he has availed loan of Rs. 1,50,000/- from Ganesh Co-operative Credit Society Ltd. Golegaon and the charge of the same is leveled on the extract 8 of suit property.

7. Prior also, regarding very suit property plaintiff had filed suit bearing No. 52/2013 for permanent injunction against Supdu Gangaram Banswal, Pralhad Ramchandra Katare, Kiran Mansing Banswal. The suit is decreed by the Court in favour of plaintiff on merit. In the east side of land gut No. 340 there is a Nala and thereafter plaintiffs 3 R land is there and thereafter Aurangabad-Jalgaon road is there. But only for grabbing plaintiffs land defendants have filed suit against plaintiff and his son bearing RCS No. 11/2020 and the same is pending in the very Court. The way, defendants are creating obstacle to the possession of plaintiff and because of the same he constrained to file the present suit.

8. On 04.12.2020 while, plaintiff and his son present in the shop

defendant illegally came in front of shop and asked plaintiff that, they have filed suit against him and warned him to pick up the heap of soil in the suit land. Even, plaintiff is warned to demolish shops constructed by him in suit property. Even, they threatened plaintiff that, if he does not go to demolish the shops, they will demolish it using force. As such, plaintiff complained the very incident to police but police did not do anything and directed him to go to Court. Hence, cause of action is happened to file the present suit.

9. Defendants are ardent having man power. Whereas, plaintiff is old aged and peace loving person. Hence, defendants are trying to occupy plaintiff suit property and for the very end they are creating obstacle over the possession of suit property. If they succeeded in their ulterior motive, plaintiff shall sustain irreparable loss. Hence, it is prayed for grant of temporary injunction in favour of plaintiff.

10. Defendants filed their written statement cum say to Exh. 5 vide Exh. 9. Defendants denied all facts in Exh. 1 as well as Exh. 5 in toto. They contended that, plaintiff filed false and bogus suit describing wrongful 4 boundaries of suit property in order to mislead the Court. Plaintiff is not having any concern with the suit property. Suit property is ancestral property of defendants. Once, no question arises as to having two shops constructed by plaintiffs over the suit land.

11. As, suit property is adjoining to Jalgaon- Aurangabad road, plaintiff has filed this suit to grab defendants property. Earlier, defendants had filed suit bearing RCS NO. 11/2020 against plaintiff and only for giving counter blast to that suit. The present suit is filed malafidely in the absence of any cause of action only for harassing defendants. No question arises as to having partitioned suit property in two parts because of Jalgaon – Aurangabad road and its entry to extract 8.

12. The suit property shown by plaintiff is in possession of defendants. No entry of suit property is in the record of Grampanchayat. The way, no question arises as to taking loan on the very suit property. The suit filed by defendants against son of plaintiffs is true one, while present suit filed by plaintiff is false one. It is plaintiff who is hardened in nature and law breaking person.

13. Four boundaries of suit property shown in plaint are wrongful in nature. On the basis of imaginary facts plaintiff filed the suit only to grab defendants property. Plaintiff has no concern with suit property. In order to create cause of action he has given imaginary date. Plaintiff has suppressed various material facts from the very Court. He has not come before Court with clean hands. Hence, it is prayed for rejecting the very application.

14. Having heard to the counsel of plaintiff and defendants and perusal of the record in hand, following points arise for my consideration and I have recorded my findings thereon with reasons recorded as follows :

SR. NO.	POINTS	FINDINGS
1.	Whether plaintiff made out prima facie case ?	In the Negative
2.	Whether balance of convenience lies in favour of plaintiff ?	In the Negative
3.	Whether plaintiff shall suffer irreparable loss in case of non granting temporary injunction ?	In the Negative
4.	What order?	As per the final order

:: REASONS ::

POINT NO. 1 TO 3 :

15. Plaintiff is claiming that, he is owner and possessor of agriculture land gut No. 343 adm. 17 R to the extent of 3 R bearing Grampanchayat No. 674 situated at Golegaon (Khurd). Plaintiff has filed one 7/12 extract of survey No. 78/3 adm. 29 R for the year 1959-60 to 1970-71. On perusal of the same, it appears that, the very land is in the ownership of Taruba Pandu Patil. As per the case of plaintiff Taruba Pandu Bankar was his uncle and his father's name was Prabhat Pandu Bankar. In partition 17 R land from survey No. 78/3 was given to his father namely Prabhat Pandu Bankar. But plaintiff has not shown any document showing that, 17 R land of survey No. 78/3 was allotted to his father in partition. Even, he has not filed any 7/12 extract showing that, 17 R land from survey No. 78/3 was standing in the name of his father because of partition. If, plaintiff became able to file 7/12 extract of whole survey No. 78/3 adm. 29 R standing in the name of his uncle for the year 1959-60 to 1970-71, the question arises why he has not filed single 7/12 extract showing that, suit property was standing in the name of his father in his lifetime.

16. Also, plaintiff has filed one extract 8 for the year on 2017-18 regarding Grampanchayat property of serial No. 674 and bearing property No. 621. On perusal of the same it appears that, the area of that house property is 3 R and the same is open land standing in the name of plaintiff Haridas Prabhat Bankar. But, the very extract 8 is not sufficient to infer that, the very house property is situated in land gut No. 343. even, the very extract 8 is not showing that, plaintiff has constructed any shop therein. Rather, it appears to be open land. Hence, the electric bill filed by plaintiff does not bear any substance. Even, one colour photo filed by plaintiff is not sufficient document to hold that land gut No. 343 adm. 3 R land is in ownership and possession of plaintiff.

17. Also, plaintiff has relied on copy of decree and judgment passed in RCS No. 52/2013 filed by him against Supdu Gangaram Banswal, Pralhad Lalchand Katare and Kisan Mansing Banswal regarding the same suit property. On perusal of the very judgment it appears that, in that suit defendants have not led their evidence and accordingly, that suit was decreed in favour of plaintiffs. The way, it can not be said that, RCS No. 52/2013 was decided on merit. The way, here plaintiff suppressed the material fact stating that, RCS No. 52/2013 was decided on merit.

18. The way, plaintiff has not filed any convincing document to show that, he is owner and possessor of land gut No. 343 adm. 17 R to the extent of 3 R situated at Golegaon Khurd. The way, in view of the above discussion it does not appear that, plaintiff made out prima facie case in his favour. As such, no question arises to lie balance of convenience in favour of plaintiff. The way, no irreparable loss shall be sustained by plaintiff. With this standpoint, I record my findings in the **Negative** against point **No. 1 to 3** and pass final order below **point No. 4** as follows-

ORDER

1. The application vide Exh. 5 is hereby rejected.

Date: 11.02.2025

(**Shri. K T Adhayke**)
Jt. Civil Judge J.D., Sillod.

:- CERTIFICATE:-

I certify that the contents of this **PDF** File are word to word as per Original Judgment/Order.

Name of the Stenographer	:- R. D. Pawar
Name of the Court	:- Jt. Civil Judge J.D, Sillod.
Order dated	:- 11.02.2025
Order digitally signed by the P O on	:- 12.02.2025
Order PDF Uploading Date	:- 12.02.2025

Sd/-
Stenographer (III).