

**Judge Code: MHAU11-2670**  
**CNR No.: MHAU110005882017**

**ORDER PASSED BELOW EXH.5**

1. Plaintiff sought temporary injunction against defendant restraining him from causing obstruction to his peaceful possession over the suit land bearing Gut No.494 to the extent of 2 H 71 R, situated at village Umrawati, Tal. Phulambri, Dist. Aurangabad (hereinafter to be referred as to 'the suit land').
2. According to plaintiff, he is the owner and possessor of the suit land. He has purchased the suit land from the brother of the defendant no.1 namely, Pandurang Dasharath Mhaske by way of registered sale deed bearing No. 1197/2010 dated 14-05-2010. Accordingly, mutation entry No.4150 was sanctioned in favour of the plaintiff. It is further submitted that, he is in possession of the suit land since execution of agreement to sell dated 06-04-2009. After execution of agreement to sell, the defendants threatened to the plaintiff for not taking the possession of the suit land. Thereafter, on 11-07-2014, defendants entered into the suit land and tried to obstruct the peaceful possession of the plaintiff. They have abused and intimidated him. The plaintiff has lodged complaint in Wadodbazar police station. He has also given complaints to Superintendent of Police, Aurangabad and to the Collector Office, Aurangabad. But till today, police have not taken any action against the defendants.
3. It is further submitted that, on 19-06-2017 at about 04:00 to 04:30 p.m. defendant Nos.1 to 8 entered into the suit land with and the help of defendant No.9 and 10 they have destroyed 1 Acre Corn crop of the plaintiff. Due to ill acts of the defendants, it becomes quite difficult for the plaintiff to cultivate the suit land. Hence, the present application for the aforesaid relief.
4. Defendants filed their written statement at Exh.18 and refuted all the adverse assertions. According to them, the plaintiff failed to approach before the Court

with clean hands. The defendants are owners and possessor of the suit land. The plaintiff had purchased adjacent land at west side of the suit land without any measurement of the land and now he is trying to encroach upon the suit land.

5. Following points arises for my determination. I have recorded my findings thereon with the reasons as below.

<b><u>Sr.No.</u></b>	<b><u>POINTS</u></b>	<b><u>FINDINGS</u></b>
1)	Whether the plaintiff is having a prima faice case?	Yes.
2)	Whether balance of convenience is lies in favour of the plaintiff ?	Yes.
3)	Whether the plaintiff would suffer irreparable loss if injuncion is not granted ?	Yes.
4)	What order ?	Application is allowed.

### **REASONS**

#### **As to point No.1 :-**

6. Heard perused the record and proceedings.
7. The plaintiff has produced on record, with list at Exh.4 copy of agreement to sell dated 06-04-2009, registered sale deed bearing No.1197/2010 dated 14-05-2010, 7/12 extract of the suit land, copies of complaint, certificate of revenue authority showing crop description in the suit land during season 2015-2016. It is evident from a reading of the 7/12 extract that, the plaintiff is owner and possessor of the suit land. The plaintiff has approached this Court to restrain the defendants from causing obstruction and interference in his peaceful possession over the suit land. It is rightly submitted by the learned advocate appearing for the plaintiff that, the plaintiff would not have come to the court without any cause of action. The plaintiff has made out a prima facie case on the basis of the above said documents. Accordingly, I answer as to point No.1 in the affirmative.

**As to point Nos.2 and 3 :-**

8. Document filed on record supports the case of the plaintiff. In the given circumstances, balance of convenience tilts in favor of the plaintiff. Likewise, irreparable loss would cause to him, if injunction, as prayed for, is not granted.
9. Considering the prima faice material on record I come to the conclusion that, plaintiff is having prima faice case and balance of convenience in his favour. In such circumstances, if defendants are not restrained from causing obstruction then plaintiff would suffer irreparable loss which never compensated in terms of money. Hence, I record my findings to the point Nos.2 to 3 in the affirmative and proceed to pass following order.

**ORDER**

1. Application is allowed.
2. Defendants or anybody acting on their behalf are hereby restrained temporarily till disposal of suit from causing obstruction and interference in the peaceful possession of the plaintiff over the suit property.

Date : 04.05.2018

Sd/-  
( D. G. Mhaske )  
Jt. Civil Judge, Junior Division,  
Phulambri.

**CERTIFICATE**

I affirm that the contents of this PDF file Order are same, word to word, as per the original Order.

Name of the Stenographer : Miss. Manjushri S. Salve  
Court : Jt. Civil Judge Jr. Div. & JMFC Court, Phulambri.  
Date : 04.05.2018  
Order signed by the  
presiding officer on : 04.05.2018  
Order uploaded on : 04.05.2018