

**ORDER PASSED BELOW EXH.5**

1. Plaintiff sought temporary injunction against defendant restraining them from causing obstruction to their peaceful possession over the suit property.
2. According to plaintiff, suit property was purchased by them vide two different sale-deed. As per sale-deed no.117/2012 Amit Bhikanrao Kunte had sold out 1 H 34 R agricultural land from the block no.51 to the plaintiff no.1. Further, vide sale-deed no.1411 Muktabai Kunte had sold out 90 R agricultural land from the block no.58 to the present plaintiff. Overall, plaintiffs are the lawful owners of the suit property. On 20-07-2017 plaintiff had been to the suit property for provide fertilizers to the crops situated suit property. At that time, defendants abused him. They threatened to kill the plaintiff. For the said reason, plaintiff filed N.C. copy to the concern police station. In this manner if persistent obstruction at the hands of the defendant remain enforced them plaintiff would suffer irreparable loss which never compensated in terms of money. Lastly, prayed to allow the application.
3. Defendants filed their written statement at Exh.15. According to them, plaintiff failed to approach before the Court with clean hands. Present defendants are not having any concern with block no.58. Present suit is filed depicting false and bougous boundaries. In fact till today, suit property is Joint Hindu Family Property of the defendants and their family. In such circumstances, Anil Kunte and Muktabai Kunte was not having any authority to execute the sale-deed in favour of plaintiff. Plaintiffs are not having any lawful possession over the suit property. Therefore, application for temporary injunction deserves to be rejected.
4. Considering the revival contention of the both the parties 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 plaintiff is having prima faice case?	Affirmative.
2)	Whether balance of convenience is lies in favour of plaintiff ?	Affirmative.
3)	Whether plaintiff would suffer irreparable loss if no injunction is granted ?	Affirmative.
4)	What order ?	Application is allowed.

### **REASONS**

5. Point nos.1 to 4 are interlinked with each other. Therefore, those are discussed altogether for sake of gravity.
6. In order to substantiate the claim, plaintiff relied on various documents filed below Exh.4/1 to 4/11.
7. Heard both the Ld. Advocates at length. I have gone through the documents filed on record. On perusal of 7x12 extract on block no.51 it appears that, the plaintiff no.1 is the owner of 1 H 34 R agricultural land situated in block no.51. Further, plaintiff nos.1 and 2 are the owners of 90 R of block no.58. Their names were recorded to the suit property vide mutation entry no.1523 and 1567. Further, the village Kamgar Talathi had issued crop cultivation certificate in favour of plaintiff showing that, plaintiff had cultivated cotton and maize crop in the suit property. Plaintiff also filed copy of relinquishment deed executed by the sisters of present defendant it shows that the sisters of present defendant had relinquished their share in favour of time.
8. According to the defendants till today suit properties are the joint family properties of the defendant. Moreover, there is no meats and bound partition amongst the parties. On perusal of the proceeding it appears that, present defendant had never challenged the validity of the transaction either before the Court or either before the revenue authority. As per the Section 157 of M.L.R.C.

revenue entries in the name of plaintiffs are having presumptive value. Considering the entire evidence on record I come to the conclusion that, plaintiffs are not in lawful possession of the suit property. Record also shows that, defendants had filed the application to the Wadodbazar police station questioning the unauthorised obstruction of the defendants. It shows that, present defendants are causing the obstruction to the peaceful possession of the plaintiff.

9. Considering the entire episode and prima faice material on record I come to the conclusion that, plaintiffs are having prima faice case and balance of convenience in their 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.1 to 3 in the affirmative and proceed to pass following order.

**ORDER**

1. Application is allowed.
2. Defendant nos.1 to 3 are hereby temporary restrained from causing obstruction to the plaintiff over the suit property till disposal of this suit or further order.
3. Both parties bear their own cost.

Date : 30.01.2018

Sd/-  
( J. G. Pawar )  
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 : Civil Judge Jr. Div. & JMFC Court, Phulambri.  
Date : 30.01.2018  
Order signed by the  
presiding officer on : 05.01.2018  
Order uploaded on : 05.01.2018