


MHBI110000652026 	<u>Regular Civil Suit No. 29/2026</u> <u>Sunil Devidas Salunkhe vs Bharat Devidas</u> <u>Salunkhe</u> <u>Order Below Exh.05</u>
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1. This is an application filed under **Order XXXIX Rules 1 & 2** of the Code of Civil Procedure, seeking an ad-interim temporary injunction to restrain Defendant Nos. 1 through 4 from **dispossessing** the Plaintiffs or otherwise obstructing their peaceful possession of the Suit Property without following the due course of law

2. The Plaintiff has instituted the present suit seeking a **Declaration of Ownership** and a **Decree of Perpetual Injunction** against the Defendants in respect of the immovable properties more particularly described in the Schedule hereunder (hereinafter referred to as the '**Suit Properties**').

Sr no.	Gat no.	Area In H R	Aakar In Rs. Paise	Disputed suit property In H R	Place name
1	147	02.74	02.98	00.98	Sisardevi
2	148	00.81	00.80	00.81	Sisardevi
3	149	00.21	00.47	00.21	Sisardevi

3. It is further submitted that the Suit Properties consist of vital irrigation sources; specifically, Gat No. 147 contains one (1) functional well and one (1) borewell, while Gat No. 149 houses a common well. For the purpose of clarity and identification, the property bearing Gat No. 147, admeasuring 98 Gunthas, has been physically divided into three distinct portions. The specific metes and bounds, along with the detailed Description of Boundaries for each of these three portions, are more particularly set forth and described in Paragraphs 2A, 2B, and 2C of this application, which shall be read as part and parcel of this description.

4. The Plaintiff No. 1 and Defendant No. 1 are real brothers, being the sons of Defendant No. 4. Plaintiff Nos. 2 and 3 are the sons of Plaintiff No. 1, while Defendant Nos. 2 and 3 are the sons of Defendant No. 1. The parties constitute a Joint Hindu Family.

5. The Suit Properties were acquired through the income generated from the Joint Family Nucleus. Following a dispute regarding ancestral shares, the mother of Plaintiff Nos. 2 and 3 instituted a suit for partition, titled RCS No. 308/2023. The dispute was resolved via a duly recorded legal compromise, forming the basis of a Decree that carries the force of law. This Decree remains valid and subsisting, and the parties are legally bound by the terms and conditions stipulated therein.

6. By virtue of the aforementioned Decree, the Plaintiffs are the absolute owners and are in exclusive settled possession of the Suit Properties. While the mutation entries in the Revenue Records are yet to be updated to reflect the Decree, the Plaintiffs continued to cultivate the land, growing crops including Jowar, Bajra, and Cotton. The Plaintiffs' settled and exclusive possession of the Suit Property is prima

facie established by the existence of standing crops and the continuous nature of the agricultural operations currently being undertaken therein.

7. On 28-12-2025, a meeting was convened to resolve burgeoning disputes; however, the Defendants categorically denied the validity of the Compromise Decree and the Plaintiffs' title. Since the said date, the Defendants have been causing continuous and day-to-day obstruction to the Plaintiffs' agricultural activities. The Defendants are now openly threatening to forcibly dispossess the Plaintiffs without following the due process of law.

8. The Plaintiffs contended that a strong prima facie case exists in their favour based on the registered Compromise Decree. The balance of convenience heavily leans towards the Plaintiffs, who are the actual cultivators of the land. Unless a Temporary Injunction is granted, the Plaintiffs will suffer irreparable loss and injury that cannot be compensated in monetary terms. In light of the above, the learned Counsel for the Plaintiffs, Mr. R.R. Ruchke, prayed that application be allowed.

9. The Defendants Nos. 1 to 4 (hereinafter 'the Defendants') formally resisted the present application and categorically denied the Plaintiffs' claim of actual, peaceful, or exclusive possession of the Suit Properties. It is submitted that, save for Gat Nos. 141 and 148, all other properties described are ancestral Joint Family Properties and have not been accurately described in the plaint.

10. While a Compromise Decree was passed in RCS No. 308/2023, the Defendants contended that the said decree was never acted upon. Specifically, no Mutation Entries (ME) were ever effected to implement the decree's terms. Subsequent to the decree, the Plaintiffs

themselves approached the Defendants with a request to reopen the partition, thereby rendering the earlier compromise defunct and unexecuted.

11. Pursuant to a mutual understanding and a meeting held at the Gram level, a fresh Oral Partition was executed between the parties. Under this arrangement:

- Gat No. 148: The entire area of 81 Gunthas was allotted to and is in the exclusive possession of Defendant No. 1.
- Gat No. 147: A portion of 29 Gunthas is in the settled possession of Defendant No. 1.
- Gat No. 147 (Additional): An further 40 Gunthas was allotted to Defendant No. 1.
- Gat No. 147 (Remaining): Two portions of 60 Gunthas each were divided between the sons of Plaintiff No. 1.

The parties have been in continuous possession of their respective shares as per this oral agreement, and Defendant No. 1 is currently cultivating the land under his occupation.

12. The Defendants argued that no obstruction has been caused to any property rightfully held by the Plaintiffs. The Plaintiffs have failed to establish a prima facie case of ownership or possession. Conversely, the Defendants would suffer irreparable loss if an injunction is granted against their lawful agricultural operations. The balance of convenience lies in favour of maintaining the current status quo of the oral partition. In light of these facts, the learned Counsel for the Defendants, Mr. S. D. Shinde, prayed that the application for

temporary injunction be rejected with costs.

13. Heard Both. I have further scrutinized the documentary evidence produced on record by both the parties in support of their respective contentions. After hearing the learned Advocates for both the parties and **giving due consideration** to their respective contentions, I proceed to decide the present application based on the following points.

14. In view of the rival pleadings and the oral submissions advanced by the learned Counsel for both parties, the following **Points for Determination** arise in the present application. I have recorded my findings against each of the said points for the reasons recorded herein below : -

Sr. No.	Points For Determination	Findings
1	In whose favor, plaintiff or defendant, the <i>prima facie</i> case is?	In favor of plaintiff.
2	In whose favor, plaintiff or defendant, the <i>balance of convenience</i> case is ?	In favor of plaintiff.
3	Who, the plaintiff or the defendant, will suffer irreparable loss, in case of refusal of injunction ?	Plaintiff.
4	What order ?	Application is allowed.

15. At the outset, it is a well-settled principle of law that while adjudicating an application for temporary injunction, the Court

is not required to conduct a 'mini-trial' or enter into a detailed investigation of the merits of the case. The scope of such an enquiry is limited to the assessment of the three cardinal principles governing the grant of interim relief, namely:

1. The existence of a **strong prima facie case** in favor of the applicant;
2. The **balance of convenience** between the contesting parties; and
3. Whether the refusal of such an injunction would result in **irreparable loss or injury** that cannot be adequately compensated by way of damages.

16. The Court's primary objective at this interlocutory stage is merely to preserve the **status quo** and protect the subject matter of the suit until the final disposal of the litigation

EVIDENCE

DOCUMENTS SUBMITTED BY PLAINTIFFS :-

Exhibit	Nature of document
4/1	7/12 extract of gat no. 147
4/2	7/12 extract of gat no. 148
4/3	7/12 extract of gat no. 149
4/4	7/12 extract of gat no. 141
4/5	Certified copy of decree passed in RCS 308/2023 dated 30-04-2023

On the other hand, no documentary evidence is tendered

by defendants.

REASONS

Points No.1 to 4

17. A term “***prima facie case***” means a case, which involves a fair and substantial question to be tried. If there is no defect in the plaintiffs' case, leading to its failure at this stage, it is in the ambit of the expression *prima facie case*. A *prima facie case* does not mean a case proved in its entirety. But, a case, which can be said to establish if the evidence, which is led in support of the same were believed. A triable issue is a crux of the expression *prima facie case*.

18. A *prima facie case* is a substantial question raised bonafide, are needs investigation and a decision on merits. It is a settled law for the purposes of forming a *prima facie* view, a Court is required to see the evidence available on the report and mere pleading does not make a strong *prima facie case*. The case must be established by sufficient material or proved by affidavit.

19. The necessary reference can be made in the case of ***State of Assam and another Vs M.s M.S. Associations, New Delhi (1994 (3) Civil LJ 281)***, wherein it has been held that,

“ Further, the suit itself was permanent injunction and in such suit of temporary injunction must be granted in a cautious manner because by granting temporary injunction relief in the suit is being granted. That should not be done by the Court. No doubt, in specific case temporary injunction may be granted. The procedure of granting temporary injunction should not be adopted as a general and normal course.”

20. According to ratio laid down in the above cited case the temporary injunction may be granted considering the facts and circumstance of the case though it is needless to mention here that, the application for temporary injunction cannot be allowed where the main prayer is of perpetual injunction. The application for temporary injunction can be granted after considering the facts and circumstance of the case.

21. A bare reading of Order 39 Rule 1 would show different situation and different purposes for grant of relief of Temporary Injunction. Rule 1(a) speaks that, the injunction can be granted when the property is in danger of waste, damage or alienation. Rule 1(b) speaks about threatening removal or disposal of the property with a view to defraud his creditors. Rule 1(c) speaks about threatening dispossession or any other injury in relation to property.

22. To substantiate their claim of title and possession, the Plaintiffs have placed reliance upon the Compromise Decree passed in RCS No. 308/2023. While the 7/12 extracts currently reflect the names of the Defendants, it is a settled position of law that revenue entries are maintained primarily for fiscal purposes and do not, by themselves, constitute an absolute proof of title.

23. The Defendants have admitted the execution of the said Compromise Decree and its voluntary nature. The explanation offered by the learned Advocate for the Plaintiffs, Mr. Ruchke, regarding the non-execution of Mutation Entries (ME) due to pending stamp duty obligations, appears plausible at this interlocutory stage. Upon a careful comparison of the Compromise Decree and the annexed Pursis, I find that the description of the Suit Properties, the respective shares, and the boundaries precisely align with the pleadings in the present

application. Consequently, the Defendants' contention regarding the mis-description of property is devoid of merit.

24. Regarding the Defendants' 'theory of oral partition' at the Gram level, it is to be noted that the burden of proof to establish such a subsequent arrangement lies heavily upon the Defendants. However, the Defendants have failed to produce any cogent oral or documentary evidence to prima facie demonstrate that such a partition was ever acted upon or that possession was transferred pursuant thereto. A mere oral assertion cannot supersede a valid Decree of a Civil Court.

25. At this stage, the Court cannot go behind the Compromise Decree to determine its voluntariness; the Decree remains binding until set aside by a higher forum. Therefore, the registered Compromise Decree serves as sufficient prima facie evidence of the Plaintiffs' title and possession. The theory of oral partition, being unsupported by evidence, is insufficient to displace the legal effect of the prior Decree.

26. From the documentary evidence on record, it is evident that the Plaintiffs' claim is anchored in a Compromise Decree passed by a competent Civil Court in RCS No. 308/2023. The Defendants' admission of this decree, coupled with the fact that the property descriptions and boundaries in the decree exactly match the suit properties, creates a strong prima facie case in favor of the Plaintiffs. While the Defendants have introduced a theory of a subsequent 'Oral Partition,' they have failed to produce any corroborative evidence to substantiate the same. A registered decree of the Court carries a presumption of legality that far outweighs unproven oral assertions. Although the revenue records (7/12 extracts) still reflect the Defendants' names, it is well-settled that such entries are for fiscal purposes only

and cannot override a judicial decree determining title and possession. Therefore, Point No. 1 is answered in the **Affirmative**.

27. The balance of convenience clearly tilts in favor of the Plaintiffs. The Plaintiffs have demonstrated that they are actively cultivating crops like Jowar, Bajra, and Cotton on the land, as per the shares allotted in the Compromise Decree. If the Defendants who have already once agreed to a partition before a court of law are permitted to obstruct the Plaintiffs' agricultural activities based on an unverified oral agreement, it would lead to a state of legal uncertainty and chaos. On the other hand, granting protection to the Plaintiffs' possession ensures judicial discipline, preventing the Defendants from unilaterally overstepping a binding Compromise Decree. Such an order is essential to uphold the sanctity of prior legal adjudications until the final disposal of the present suit. **Thus, Point No. 2 is answered in the Affirmative.**

28. The Plaintiffs are currently in settled possession and are engaged in seasonal cultivation. Any act of forcible dispossession or day-to-day obstruction by the Defendants would not only result in the loss of standing crops but would also infringe upon the Plaintiffs' valuable property rights secured by a court decree. Such loss, involving the right to livelihood and peaceful enjoyment of land, is of a nature that cannot be adequately compensated in monetary terms. To prevent such a scenario and to protect the subject matter of the suit, an interim injunction is essential. Accordingly, Point No. 3 is answered in the **Affirmative**. Hence I pass following order in answer to point no. 4. -

ORDER

1)	Application for interim injunction (Exh.5) is allowed.
2)	Issue temporary injunction against defendant no. 1 to 4 in terms of prayer clause-1 of the application for interim injunction(Exh.5) till final decision in this suit. Defendant Nos. 1 to 4, their agents, servants, or any person acting on their behalf, are hereby restrained from causing any obstruction to the Plaintiffs' peaceful possession and cultivation of the Suit Properties (as described in the Schedule of the Plaint/Application).
3)	The Defendants are further restrained from forcibly dispossessing the Plaintiffs from the Suit Properties without following the due process of law , during the pendency of the present suit.
4)	Parties to note that the findings of the order are purely from the point of view of deciding temporary injunction and are made only on the basis of prima facie case on record.
5)	Costs in the main cause.

(Typed and pronounced in open court)

Place – Georai

(Shruti H. Patil)

Date:- 08-05-2026.

Jt. Civil Judge J. D. Georai

CERTIFICATE

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

Dictated on :- 08.05.2026
Transcribed on :- 08.05.2026
Checked & Signed on :- 08.05.2026

Sd/-
(P.B. Kusumkar)
Stenographer (G-3).