

MHBU010002142025



R.C.A.NO.09/2025

Vishal Rameshwar Ambhore

Vs.

Ramsing Ahelu Kharat

ORDER BELOW EXHIBIT NO.5

(Passed on this 27th day of January 2026)

1] Instant application (Exh.5) has been filed for grant of temporary injunction. The plaintiff has challenged the judgment and decree passed by learned Civil Judge,Jr.Dn.Chikhli in RCS No.37/2017 decided on 9.1.2025. By way of impugned judgment and decree, learned trial Court has dismissed the suit for perpetual injunction.

2] Appellant/plaintiff has challenged above impugned judgment and decree before this Court by way of appeal. In the said appeal, Exh.5 has been filed for grant of temporary injunction on the ground that the plaintiff is owner and possessor of Gat No.323. The Western side 4R land shown in the map of 18.4.2013 is part of Gat No.323 [which is marked as E,F,G in the map of 18.4.2013 and is shown in Gaothan area]. As per plaintiff, the land marked as E,F,G is part of Gat No.323. The defendant is trying to construct house on 4R land at the Western side of above-said suit property. The said property is not given to the defendant by the Government. The defendant is not having any concern with the said property. But, he has started construction over the said property. So, requested to grant temporary injunction.

3] The respondent/defendant filed his say below Exh.11 and

denied all the contentions of plaintiff by contending that the Government has given plot No.109 against his property of 33 X 33 of total 1089 square feet situated at mouje Brahmapuri, Tq.Chikhli, Dist.Buldhana. Accordingly, the house No.235 having property No.240 is allotted to defendant by Gram Panchayat and accordingly, the defendant is owner and possessor of said property. So, requested to reject the application for plaintiff.

4] Following points arise for my determination. Those are answered with my findings thereon for the reasons given below;

Sr. No.	Points	Findings
1]	Whether plaintiff has established prima facie case in his favour ?	In the negative.
2]	Whether balance of convenience is lying with him ?	In the negative.
3]	Whether plaintiff would suffer irreparable loss in case temporary injunction application is not allowed ?	In the negative.
4]	What order ?	As per final order.

REASONS

AS TO POINT NOS.1 TO 3 -

5] Heard both the sides. Perused the record. It is found that the plaintiff has filed the sale-deed of suit property Gat No.323 below Exh.45. After going through the sale-deed, it is found that four-boundaries of Gat No.323 are mentioned as follows;

At East- land of Vishwanath Ambhore,

At West- land of Deorao Ambnore,

At North- Gaothan area,

At South- land of Alka Sakhare.

Thus, it appears that the subject matter of the present suit is 4R land which is marked as E,F, G in the map dated 18.4.2013. The plaintiff has examined the witnesses Ganesh Ambhore and Moreshwar Pawar. As per plaintiff, the map is prepared by the Deputy Supdt of Land Record, Chikhli. The plaintiff neither has mentioned the four-boundaries of 4R land marked as E,F,G in the suit nor has examined the Deputy Supdt of Land Record to prove the map or to bring on record the boundaries and details of 4R land which is the subject matter of the suit. Thus, the plaintiff has failed to prove the map and his possession over alleged land marked as E,F,G. Thus, plaintiff failed to prove that the land marked E,F,G is a part of Gat No.323. The suit nowhere shows the boundaries of 4R land which is alleged to have encroached by the defendant by raising construction over it.

6] The plaintiff has also filed complaint application below Exh.46 whereas defendant has filed the order of Government below Exh.63. The order below Exh.63 reveals that Tahsildar, Chikhli has allotted the plot No.109 bounded by East-Government road, at West-Gat No.108, at North-Gat No.96 and at South-Government road. The extract of assessment register below Exh.65 reveals that the property No.247 is allotted to defendant which is bounded by at East-Government road, at West-plot No.89, at North- plot No.70 and at South-plot No.96 situated at Brahmapuri, Tq.Chikhli, Dist.Buldhana. Thus, all these documents show that the boundaries of property of defendant are altogether different from boundaries of property held by the plaintiff. Even for a while if it is

considered that the 4R land of Gat No.323 is the subject matter of the suit, then the boundaries of this 4R land as per map dated 18.4.2013 can be gathered like this- at East-land of plaintiff himself, at West-land of Deorao Ambhore, at North-Gaothan land and at South-land of Deorao Ambhore. So, these boundaries are not matched in any way with the boundaries mentioned in Sanad [Exh.63] and extract of assessment list [Exh.65]. The tax receipts and 8A extract below Exh.64 and Exh.65 which reveals that the defendant has been granted plot No.109 and the name of defendant is recorded in 8A extract below Exh.65. So also, he has filed the tax receipt. Thus, the material on record reveals that the plaintiff has not filed any document to show that the 4R land situated at Western side of the suit property is the part of suit property. The plaintiff has not filed any document showing that the plaintiff is possessor of said 4R land. In such circumstances, there is no prima facie case in favour of plaintiff. So also, balance of convenience does not lie in favour of plaintiff and in such circumstances, if injunction is not granted, the plaintiff will not suffer any irreparable loss. So, I answer point Nos. 1 to 3 in the negative and proceed to pass the following order.

ORDER

Application (Exh.5) is rejected.

Buldhana
Date:27.1.2026

(Manjusha V. Deshpande)
District Judge-1,
Buldhana