

IN THE COURT OF CIVIL JUDGE SENIOR DIVISION MEHKAR,
DIST. BULDHANA.

(Presiding Officer : T. S. Gaigole)

CNR No.MHBU210005732025



Regular Civil Suit No.175/2025

Dhananjay Janardhan Bore

Vs

Vijay Bhimrao Avhale & othrs.

ORDER BELOW EXH.5 Temporary Injunction Application

Plaintiff/applicant has filed this application seeking temporary injunction under Order XXXIX, Rule 1 and 2 R/w Sec. 151 of the Code of Civil Procedure, 1908 to restrain defendant No.2 from taking any action in regard to its notice dated 18/03/2025 in respect of the suit property.

2. Defendant No.1 filed written statement at Exh.23. He admitted that he sold suit property plot No.22 to the plaintiff. He also stated that he has taken permission for conversion of the his land in survey No.86/1 into non-agricultural residential purpose. Thereafter, S.D.O. has granted permission and 22 plots were created. Out of which, 1 plot i.e. suit property was sold to the plaintiff. The defendant No.2 has illegally started proceeding under section 258-A of the Maharashtra Land Revenue Code. Therefore, he prayed that rights of the bonafide purchaser be protected.

3. Defendant No.2 and 3 filed written statement at Exh.9. They denied all material allegation and prayed to reject the present application.

4. Heard Ld. Counsels for both sides. Considering the pleadings of the parties, following points arise for my determination and I recorded my finding there on with reasons as under :

<u>Sr. No.</u>	<u>POINTS</u>	<u>FINDINGS</u>
1)	Whether plaintiff has prima-facie case in his favour ?	...In the affirmative.
2)	In whose favour the balance of convenience lies ?	...In the affirmative.
3)	Whether irreparable loss would cause to the plaintiff if temporary injunction is refused ?	...In the affirmative.
4)	What order ?	As per final order.

REASONS

As to Point Nos.1 to 4 :-

5. Heard Ld. Counsel for the plaintiff Shri. T. M. Kale. Having given sufficient opportunity, Ld. Counsel/A.G.P for defendants did not argue. Ld. Counsel for the plaintiff relied upon documents at list Exh.6 and 33.

6. It is argued by the Ld. counsel for plaintiff, that plaintiff is owner and possessor of the suit property plot No.22 by virtue of the registered sale-deed dated 07/11/2024. On 31/03/2023, the order of conversion of 3500 Sq. Mtrs. land into non-agricultural residential use was passed on the application of the defendant No.1. It is further argued that after one and half year, defendant No.2 issued notice dated 17/02/2025 to the defendant No.1 stating that review proceeding has been started in regard to that case on the ground that Assistant Town Planner has not given 'no objection' for the conversion of agricultural land into non-agricultural residential purpose. It is argued by Ld. advocate for the plaintiff that defendant

No.1 sold suit property to the plaintiff by way of registered sale-deed. Since the plaintiff is in the possession of the suit property and his name is mutated in the 7/12 extracts separately. It is further submitted by the Ld. advocate for the plaintiff that defendant No.2 did not issue notice to the plaintiff in the review case, also there was no sanction of the commissioner or settlement commissioner for the review proceeding as per section 258 of the MLR Code.

7. In support of the argument, the Ld. advocate for plaintiff relied upon case laws 1) **Malleeswari V/s. K. Suguna & anr. SLP (c) No.12787 of 2025**, 2) **Baban Anantrao Naik V/s. Sau. Pramila Uttamrao Yenare & anr. reported in 2011(6) ALL MR 15**, 3) **Maharwal Khewaji Trust V/s. Baldev Das reported in AIR 2005 Supreme Court 104**.

8. On perusal of documents, it reveals that defendant No.1 filed application to the defendant No.2 for conversion of the 3500 Sq. Mtrs. land in survey No.86/1. On 31/03/2023, S.D.O. Mehkar (defendant No.2) passed order in NAP-34/Mehkar/21/2022-23 granting for permission for conversion of land into non-agricultural residential purpose. Thereafter, 22 plots are created and demarcated. The 7/12 extracts filed on the record shows that plaintiff is owner in the possession of the suit property. Separate mutation entries are taken in the 7/12 extracts. Therefore, it reveals that after the order in NAP-34/Mehkar/21/2022-23 character of the agricultural land in survey No.86/1 has been changed to non-agricultural i.e. plots have been developed and plaintiff has been in possession of it separately. Thus, it was incumbent on the part of the

defendant No.2 to give notice to the plaintiff and give him opportunity to hear. However, defendant No.2 did not give the notice to the plaintiff. As per section 258(1)(ii) of the Maharashtra Land Review Code “no order shall be varied or reversed unless notice has been given to the parties interested to appear and be heard in support of such order.” In the present case, plaintiff is the party interested to appear because his rights have been vested in the land plot No.20 survey No.86/1.

9. Also, it appears from the documents, that previous order for granting permission for conversion of agricultural land survey No.86/1 into non-agricultural residential purpose was passed on 31/03/2023 and after one and half year, notice for the review was issued. No satisfactory reason for delay has been given by defendant No.2.

10. Further, it is argued by the Ld. advocate for plaintiff that the review proceeding has been started on the ground that there is no permission of the Assistant Director of Town Planning. However, as per rule 3.5 of the Maharashtra Unified Development Control and Promotion Regulation, plots which are less than 20000 Sq. Mtrs., no space for amenity is required to be left and if the layout is above 20000 Sq. Mtrs. then 5 % of the total area to be left for amenity. He further argued that in the present matter, permission for the non-agricultural purpose is granted for the area measuring 3500 Sq. Mtrs. which is less than 20000 Sq. Mtrs., therefore, there is no need for amenity space.

11. Also Ld. advocate for plaintiff argued that as per section

258(1)(i), the Collector or Settlement Officer shall first obtain the sanction of the Commissioner or the Settlement Commissioner. There is no sanction obtained as per section 258(1)(i) of the MLR Code. Therefore, the notice issued by defendant No.2 is wrong and illegal. He also relied on the government notification dated 04/11/2025 and submitted that notice is illegal in view of the said notification. In the present case, considering nature, facts of the case and also provision of section 258 of the MLR Code, I am of the considered view that the issues whether the sanction under section 258(1)(i) of the MLR Code is necessary and the amenity space is required or not as per UDCPR guidelines and also whether government notification dated 04/11/2025 is applicable to the present case are the issues which are required to be decided on merit at the time of trial.

12. At this stage, while deciding temporary injunction application, it is necessary to see that whether plaintiff has prima-face case for irreparable injury and balance of convenience to justify the injunction. In the present case, it reveals that on 31/03/2023, S.D.O., Mehkar in NAP-34/Mehkar/21/2022-23 granted permission to the defendant No.1 on his application for the conversion of their land in survey No.86/1 into non-agricultural residential purpose. It also reveals from the documents that after permission from the S.D.O., Mehkar 22 plots were created and demarcated. Thereafter, defendant No.1 sold plot No.20 to the plaintiff by registered sale-deed dated 07/11/2024. Separate 7/12 extracts is prepared in the name of the plaintiff. Therefore, it shows that plaintiff is legally in possession of the suit property. In the year 2023, S.D.O., Mehkar has

granted permission for conversion of land into non-agricultural purpose and after 1 year and 10 months, without giving opportunity of hearing to the plaintiff and without giving any reason for delay for the review the present S.D.O., Mehkar (defendant No.2) issued notice for the review proceeding. However, plaintiff is in possession of the suit property. So his possession needs to be protected. Considering above facts, it reveals that plaintiff has prima-facie case.

13. It also reveals that on 18/03/2025, present S.D.O., Mehkar (defendant No.2) issued notice under section 258(1) of the MLR Code for the review proceeding. Therefore, there is an apprehension in the mind of the plaintiff that his possession on the plot will be disturbed. In the present matter, plaintiff prayed for the temporary injunction restraining defendant No.2 not to take any action in view of the notice dated 18/03/2025. However, considering nature and facts of the case, such prayer of the plaintiff cannot be granted against government authority doing their statutory duty. However, as plaintiff is legally in the possession of the suit property, it is necessary to protect his possession. From perusal of record it shows that the plaintiff has invested money for the purchase of the plot. Therefore, if at this stage his possession is not protected, he may suffer irreparable loss. On the other hand, the defendants will not suffer any loss.

14. Considering facts discussed above, it clearly shows that the plaintiff has prima-facie case in their favour. Therefore, the balance of convenience lies in favour of the plaintiff. If the

temporary injunction is not granted, the plaintiff will suffer irreparable loss. On the contrary, if the temporary injunction is granted, the defendant will not suffer any loss. In this circumstance, I answer point No.1 to 3 in the affirmative and accordingly, I answer point No.4 as follows.

ORDER

- 1) Application Exh.05 is partly allowed.
- 2) Defendant No.2 or anybody else on his behalf is hereby temporarily restrained from creating any obstruction to the peaceful possession of plaintiff over the suit property till decision of the suit.
- 3) Costs in cause.

Date : 21/04/2026

(T. S. Gaigole)
Civil Judge Senior Division,
Mehkar.

R.C.S. No.175/2025 (0)
Dhananjay Bore V/s. Vijay Avhale & ots.

CERTIFICATE

I affirm that the contents of this P.D.F. file order is same, word to word, as per the original order.	
Name of the Stenographer Grade II	Balkrishna M. Shilwant.
Court	Civil Judge Senior Division, Mehkar.
Date	21/04/2026
Order signed by the presiding officer on	21/04/2026
Order uploaded on	21/04/2026