

R.C.S. No. 24/2025  
CNR No. MHCH170003622025

ORDER PASSED BELOW EXHIBIT NO.13  
IN R.C.S. NO.24/2025

By this application, the plaintiff submitted that status-quo may kindly be granted.

2] By way of this application, the plaintiff submit that the present suit is instituted for declaration and perpetual injunction. The defendant required to restrain from demolishing, interfering and disturbing the possession of plaintiff. The plaintiff is in possession over the suit property due to registered agreement to sell dated 26.11.2019. The plaintiff has constructed house with permission and sanction from earlier grampanchayat. She has possession over suit property since long. The defendant appeared in the suit but not filed his reply and written statement. The defendant taking disadvantage of government holiday, issued notice to plaintiff for removal of alleged encroachment. The plaintiff has not encroached over the property mentioned in the notice. The plaintiff has no any chance to save his property. The defendant has knowledge about the pendency of T.I. application in the present proceeding then also intentionally without filing any say in the proceeding issued alleged notice to plaintiff. The suit property in danger due to act of defendant for demolishing. If the property is demolished then it would cause prejudice to plaintiff. Therefore it is necessary to grant status-quo order till the disposal of temporary injunction and application.

3] The matter is taken on board and notice issued to defendant. The learned advocate Shri. T. N. Dhande for defendant

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appeared and filed say. The defendant has opposed the application of plaintiff on the ground ownership over the suit property. It is submitted that the ownership claimed by the plaintiff over the suit property. The title of the suit property is in dispute. The defendant submitted that the alleged construction is illegal. Therefore the application is meritless. If there is no title over the property then the status-quo cannot be granted.

4] Learned advocate for plaintiff submit that the plaintiff has possession over the house property old grampanchayat malmatta no.2753, old ward no.6, prabhag no.17 situated at Bhisai Tah.Chimur Dist.Chandrapur admeasuring about 500 sq.ft. The plaintiff is in possession for suit property due to registered agreement to sell dated 26.11.2019. The defendant issued notice for removal of encroachment. The plaintiff has not encroach over the any property of government. She is in possession of suit property. If the house property is demolish by defendant on the basis of notice dated 17.04.2025 then plaintiff will came on road. The property is house. The learned advocate for plaintiff has relied on **IN RE directions in the matter of demolition of structure dated 13.11.2024**. The Hon'ble Apex Court in this reference has observed that the officials should also be inform that if the demolition is found to be in violation of the order of this Court, the officer for officers concerned will be held responsible for restitution of the demolish property at his/their personal cost in addition to payment of damages.

**IN RE Manoj Kebrewal Akash 2024 legal eagle ( S C ) 1143**. In this case Hon'ble Apex Court has observed that the state of U.P. has to pay compensation in the amount of 25 lakhs as an interim measure. The Chief Secretary of government of U.P. Shall after conducting the enquiry take suitable action including penal measure

to ensure accountability of individual official who have acted in violation of law. The implementation of these directions shall be initiated no latter than within a period one month from the date of this order.

5] Learned counsel for plaintiff further argued that the document produced on record are shows the possession of plaintiff over suit property. The defendant has no concerned with the possession of plaintiff. The plaintiff will prove title at the hearing of main suit. At this juncture status quo may kindly be granted.

6] Per contra learned advocate for defendant argued that the plaintiff has instituted suit for declaration and perpetual injunction. The plaintiff has no title over the suit property. The alleged agreement to sell does not create any interest on suit property. The defendant is local body. They have title over the suit property. The application is filed without any urgent relief. The application for status-quo is meritless. The defendant initiated legal action for removal of encroachment against plaintiff. The application is not tenable in the eyes of law. The application is liable to be rejected.

7] I have gone through the record of the case. It is seen that the suit is instituted for relief of declaration and perpetual injunction. The property mentioned the plaint para 1 that that old grampanchayat malmatta no.2753, old ward no.6 prabhag no.17 situated at Bhisli Tah.Chimur Dist.Chandrapur is the subject matter of suit. The interim application at Exh.5 came to be filed by plaintiff. The relief against defendant regarding restrain him from demolishing, interfering and disturbing the peaceful possession of plaintiff over the suit property came to be claimed. The defendant appeared but not filed his written statement or say to the suit and T.I.

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application. The defendant objected the status-quo application of plaintiff. It is the submission of defendant that they have title over the property. It is further submitted that the plaintiff has no title over the suit property.

8] It is seen from the document produced below Exh.4 that it is copy of notice issued to plaintiff by defendant for removal encroachment. It is the submission of plaintiff that she has not encroach over any property. The copy of agreement to sell produced at Exh.4/4. The copy of tax receipt produced at Exh.4/5. The copy of certificate issued by grampanchayat regarding to the sanction of construction work to plaintiff in the property no.2753 produced at Exh.4/7. The list of document Exh.4 shows that plaintiff relied on the documents. However the defendant has not filed any document on record. The status-quo application along with the documents shows that the defendant issued notice to plaintiff for removal of encroachment on the date on 21.04.2025. It is seen from the documents on record that the prima-face defendant has not produced any document which shows the encroachment by plaintiff over the government property. The present suit is itself about the relief of declaration and perpetual injunction. Prima-facie it is seen that the plaintiff is in possession of grampanchayat malmatta no.2753. It is also seen that grampanchayat issued the certificate for construction of house on malmatta no.2753 on the terms and conditions to plaintiff.

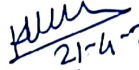
9] The ratio of the aforesaid cases not disputed by the defendant. The said ratio of the cases will take into consideration at the time of deciding application Exh.5 on giving opportunity to both parties. At this juncture it is necessary to see the prima-facie case. The notice issued by defendant dated 17.04.2025 which received by Amol on

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19.04.2025 regarding to the implementation of the removal of encroachment programme dated 21.04.2025. In such a circumstances parties to the suit shall maintain status-quo till next date.

Date: 21/04/2025.

  
21-4-25  
(K. K. Khomane)  
I/C Jt. Civil Judge (Jr.Dn.),  
Chimur, Dist.-Chandrapur.