

**MHCO120000022025**



**IN THE COURT OF JUDGE, CO-OPERATIVE COURT NO.  
I, PUNE.**

**(Presided over by Smt. Anju Jadhav, Judge)**

**Dispute no.09/2025**

**Mrs. Atin Mhatre**

**...Disputant**

**V/s**

**Flora City Co-operative Housing  
Society Ltd., and others.**

**...Opponents**

**ORDER BELOW EXH. NO. 5**  
**(On dated 24/07/2026)**

1. Read the application for temporary injunction and perused the documents produced on record and heard the learned Advocate Shri. Ajnadkar for disputant. Opponents and advocate remained absent for argument.
2. The present dispute is filed by the disputant seeking declaration and permanent injunction in respect of the alleged illegal construction of a cricket pitch on the

common open space situated between buildings 'D' and 'E' of opponent No.1 Society. By the present application, the disputant has prayed for temporary and mandatory injunction restraining the opponents from permitting members or outsiders to play cricket on the said pitch and for a direction to demolish the said cricket pitch during the pendency of the dispute.

3. The case of the disputant is that he is the owner of flat no. D-2 and claims ownership over the land attached to the said flat under registered documents executed by the builder. According to him, the sanctioned layout provides for common open space, garden and recreational area, and the Managing Committee has illegally constructed a cricket pitch without passing any valid resolution of the General Body or obtaining the consent of the residents of buildings 'D' and 'E'. It is further contended that the said cricket pitch has resulted in continuous nuisance, noise pollution and damage to the windows of his flat due to cricket being played with hard balls, thereby endangering the safety of his family and causing irreparable loss. And therefore disputant requested to allow the application.

4. Opponent nos. 1 and 2 appeared but failed to file say to the application hence application proceeded without their reply.
5. Opponent nos. 3 and 4 served summons but they remained absent hence exaparte order passed against them below Exh.1.
6. Heard Ld. Adv. Shri. Abhay Ajnadkar for disputant. Opponent nos. 1 and 2 remained absent for argument.
7. Perused record and proceeding, on-going through the contentions and submissions of disputant following points arise for my determination and I record its findings thereon with reasons as under: -

**POINTS****FINDINGS**

1. Whether the applicant proves  
prima-facie case in his favour? : Partly affirmative  
Whether applicant proves balance of  
convenience in his favour : Partly affirmative
2. Whether applicant will suffer irreparable  
loss, if stay is not granted? : Partly affirmative
3. What order? : Application is  
partly allowed.

## **REASONS**

### **AS TO POINT NOS. 1 to 4 :**

8. Since, issue nos. 1 to 4 are interconnected and arise out of the same set of facts and questions of law, they are being considered together for the sake of convenience and to avoid repetition of discussion.

9. The relief sought by the disputant includes not merely a prohibitory injunction restraining use of the cricket pitch but also a mandatory injunction directing demolition of the existing structure. It is well settled that a mandatory injunction at the interlocutory stage is granted only in exceptional circumstances where the applicant establishes a very strong prima facie case and where refusal of such relief would result in irreparable injustice incapable of being compensated at the final hearing.

10. At this interlocutory stage, the Court is not required to record findings on the disputed questions relating to ownership of the attached land, legality of the construction, validity of the resolutions of the society or the rights of the parties. These issues require evidence and shall be adjudicated after the parties lead their respective evidence.

11. However, the documents placed on record prima facie indicate that the disputant has raised grievances regarding nuisance allegedly caused due to cricket being played on the pitch situated adjacent to his flat and has also relied upon complaints addressed to the society before institution of the present dispute. The apprehension regarding damage to property and inconvenience to the occupants cannot be completely ignored at this stage.

12. At the same time, directing demolition of the cricket pitch at the interlocutory stage would amount to granting substantially the same relief as claimed in the main dispute. Such a relief cannot ordinarily be granted before recording evidence unless exceptional circumstances are established which are presently not made out.

13. Considering the material placed on record and balancing the competing interests of both sides, this court is of the opinion that the ends of justice would be served by preserving the existing position without directing demolition of the cricket pitch at this stage. However, it is necessary to protect the disputant against the alleged nuisance and possible damage pending adjudication of the dispute. Hence, I answered issue nos.

1 to 3 in partly affirmative and in answer to issue no. 4 I proceed to pass the following order.

**ORDER**

1. The application is partly allowed.
2. During the pendency and final disposal of the present dispute, the opponent society is herewith restrained from allowing the members, children, adults and outside persons from entering and playing on the cricket pitch erected on the open space between the 'D' building and 'E' building.
3. The prayer seeking a mandatory injunction directing demolition of the cricket pitch at the interlocutory stage is rejected.
4. No order as to costs.

**(Smt. Anju Jadhav)**

**Date: 24/07/2026**

**Judge,**

**Place: Pune**

**Co-operative Court no. I, Pune.**