

ORDER BELOW EXHIBIT 14

This is an application for temporary injunction by the plaintiff under Order XXXIX Rule 1 of Code of Civil Procedure, 1908.

2. The plaintiff in the present suit seeks partition and possession. The subject matter of the present suit pertains to eight agricultural lands situated at Navegaon, Taluka-Salekasa as described in paragraph 1 of the plaint.

3. **The case of the plaintiff in a nutshell is as follows:**

The plaintiffs are the sons of the deceased Shantabai, who was daughter of deceased Parasram. The deceased Parasram has three daughters and two sons. However, the two daughters Sunita and Gitabai filed partition suit against the legal heirs of their deceased brother Ganesh. Other brother has died issueless. The plaintiffs and defendants filed the suit in collusion and did not mention that the common ancestor Parasram has third daughter Shantabai. The suit was decided ex parte and decree of partition was passed.

The plaintiff contented that, their deceased mother Shantabai had share in the ancestral property of the father. However, her two sisters and the heirs of deceased brother filed the suit in collusion and suppressed the material fact of presence of another shareholder. Now, the defendants are about to sell the suit land which needs to be protected from further alienation. Hence, it is prayed that, temporary injunction be granted to restrain the defendants from alienating the suit land.

4. The defendant no. 1 and 3 to 6 did not file their say in spite of service of suit summons.

5. Heard learned advocate for the plaintiff. Perused the present application and other material on record.

6. Following points arise for determination and my findings thereon and reasons thereof are as follows:

SR. NO.	POINTS	FINDINGS
1.	Whether the plaintiff has a prima facie case?	YES
2.	Whether the balance of convenience lies in favor of the plaintiff?	YES
3.	Whether the plaintiff will suffer irreparable loss, if interim injunction is refused?	YES
4.	What order?	As per final order

REASONS

7. The plaintiffs relied on several documents filed along the list of documents at exhibit 4. The document no.1 to 8 are 7/12 extracts of the suit land. The document no.9 and 10 are heirship certificate issued by police patil and gram panchayat. The plaintiffs further relied on several documents filed along the list of documents at exhibit 20. There are two affidavits of villagers stating that the plaintiffs are legal heirs of deceased daughter of Parasram. The judgment in RCS No.-77/22 dated 29/11/2023 is also filed on record.

Point No. 1

8. Heard and carefully gone through the record. In the suit bearing RCS No.-77/22 filed by the present defendant no. 1 and 2 there is no mention of presence of another legal heir of commons ancestor. The plaintiffs therein

did not mention that Shantabai was daughter of deceased and she has died living behind such and such heirs. It is not possible to accept that the sister failed to mention the name of their deceased sister in the plaint.

9. The plaintiff relied upon the primary document no.9 and 10 issued by police patil and gram panchayat respectively stating that Shantabai was daughter of deceased Parasram. There are two affidavits of villagers stating that the plaintiffs are legal heirs of deceased daughter of Parasram. Surprisingly, the plaintiffs in RCS No.-77/22 failed to mention the said fact.

10. Without going into the merit of the matter, it is necessary to note that the plaintiffs have to establish their status and right in the suit land. At present the relief of restrain on disposal of the property is sought. The defendants will not face any legal hurdle if the alienation of the suit land is restricted. The plaintiffs have primary document of heirship certificate to show their relation with the co-parceners of the suit land. The plaintiffs were not party in RCS No.-77/22 and the suit was decided ex-parte among the present defendants. Prima facie, there is something fishy. There is merit in the application. The Hence, I answer point no.1 in the affirmative and record my finding thereon as 'Yes'.

Point No. 2 and 3

11. It is the fear of the plaintiff that, the property may further be alienated and thereby he may suffer the irreparable loss. It is acceptable that, if the property is further alienated it will cause great hardship to the plaintiffs. Therefore, the balance of inconvenience lies in favor of the plaintiffs. Hence, I answer point no. 2 and 3 in the affirmative and record my finding thereon as 'Yes'.

Point No. 4

12. On the basis of facts and documents on record, this court is of this view that, there is *prima facie case* in favor of the plaintiffs, if the defendants are not restricted from alienation of the suit property irreparable loss would be caused to plaintiffs and the balance of convenience lies in his favor to allow his application. Therefore, following order is passed:

ORDER

1. The application at exhibit 14 is allowed.
2. The defendants or any other person claiming under them, in any manner, are hereby temporarily restrained from **alienating** the suit land as described in the suit ***till the further order.***
3. Parties to bear their own costs.

sd/-

(Atul R. Joshi)

Date: 13/11/2025

Jt. Civil Judge, J.D., Amgaon.