

MHGO070001722024



**: COMMON ORDER BELOW EXH. 5 AND EXH. 21:**  
(Passed on this 11<sup>th</sup> day of March, 2026)

The counter applications are filed by plaintiffs and defendants for grant of temporary injunction under order 39 Rule 1 and 2 of the Code of Civil Procedure.

**The brief facts of the plaintiffs' case are as under-**

2] The plaintiffs/applicants have filed the suit for Partition, Separate Possession and Permanent Injunction against the defendants. It is contended that the plaintiffs and defendants were doing the business of broker-ship in the partition. Hence, they decided to purchase some agricultural land jointly and also decided to do some more business in the partnership. Accordingly, they have purchased some agricultural land jointly, details thereof is an under:-

Mauja	P. H. No	Gat No.	Area	H. R.	Revenue	Right
Shirpurbandh	07	65/2	0.20	H. R.	Rs. 0.60	Class I
Shirpurbandh	07	67/2	0.21	H. R.	Rs. 0.40	Class I
Shirpurbandh	07	68/1/a	0.21	H. R.	Rs. 0.50	Class I
Shirpurbandh	07	69/1/a	0.21	H. R.	Rs. 0.50	Class I
Shirpurbandh	07	69/2	0.38	H. R.	Rs. 1.00	Class I

3] The plaintiff no. 1 and defendant no.1 started the business of weighing bridge which is constructed/installed on the land bearing Gat Nos. 62/2 and 67/2 of Mauja Shirpurbandh, Ta-Deori, Distt. Gondia by investing the equal amount which hereinafter be called as “Suit property.”

4] It is further submitted that the suit property is the joint property of plaintiffs and defendants and it is in joint possession of plaintiff and defendants and was cultivated jointly by them who are the owners of said Gat numbers. Similarly, business of weighing bridge was started by the plaintiffs and defendant nos. 1 and 2 jointly in the year, 2015 by name and style Rajlaxmi Dharamkata.

5] It is further contended by the plaintiffs that the aforementioned lands were purchased vide registered sale deeds jointly in the names of both parties and from the earning of the agricultural land, plaintiff no. 1 and defendant no. 1 started the business of weighing bridge jointly in the year, 2015 by name and style as Rajlaxmi Dharamkata by investing the equal amount. Plaintiff no. 1 and defendant no. 1 used to look after the business of weighing bridge and at the end of every month, by calculating the profit after deducting all the expenses were distributing the profit between them. However, in the last month i.e. in the month of January, 2024, plaintiff no.1 was busy in other work hence, could not calculate the profit on 31/01/2024. Thereafter, plaintiff no. 1 approached the defendant no. 1 on 12/02/2024 and asked to calculate the profit and give him share of the profit of January, 2024 but defendant refused to calculate the profit of the month of

January, 2024 and also refused to give any share and told that plaintiffs have no right in the business of weighing bridge and also threatened that if plaintiffs come on the weighing bridge, defendant no. 1 will not allow to enter into the office of weighing bridge.

6] It is further contended by the plaintiffs that plaintiff no. 1 tried to give understanding to the defendant no. 1 that entire suit land and weighing bridge is in joint ownership of plaintiffs and defendants and he is bound to give the share of plaintiffs in suit property also plaintiffs asked defendants no. 2 and 3 to intervene in the matter and by giving understanding to the defendant no. 1, to give share of the plaintiffs and also to keep the proposal that plaintiff no. 1 and defendant no. 1 can run the business of weighing bridge in alternate month and person can take the profit of one month who will run the said business in that month but defendants rejected the proposal and also refused to allow plaintiff to come on the suit property, hence, plaintiff constrained to file this suit.

7] It is further contended by the plaintiffs that the suit property is the joint property of plaintiffs and defendants and as per oral condition between plaintiffs and defendants, plaintiff no. 1 and defendant no. 1 used to look after the business of weighing bridge. The defendant no. 1 did not give any profit of business of weighing bridge, plaintiff cannot do anything as all the original documents are with the defendant no.1. The business of weighing bridge is developed by the plaintiffs by taking special efforts and said business is the only source of earning for plaintiffs. Hence, it is necessary to restrain the defendants from disturbing the possession of the

plaintiffs over the suit property.

8] The plaintiffs have the prima facie case in their favour. Also balance of convenience lies in favour of the plaintiffs and there is no any other efficacious remedy available than the said application to restrain defendants from disturbing the peaceful possession of plaintiffs over the suit land and business of weighing bridge and restraining them from running business of weighing bridge and disturbing possession of plaintiffs over the suit land and prayed to allow their application for temporary Injunction.

9] Defendants appeared on 4/10/2024 through their advocate and filed their reply to the temporary injunction application and written statement to the suit vide Exh. 16 along with counter claim at Exh. 19. They have also filed application for temporary injunction at Exh. 21 and further denied all the contents in the temporary injunction application filed by the plaintiffs except about the purchase of suit land.

10] In reply, the defendants submitted that after taking consent of the plaintiffs and defendant no. 3, on the half portion of the land bearing Gat no. 65/2, area 0.20 H.R. situated at Shirpurband, the defendant no. 1 started weighing bridge name and style as Rajlaxmi Dharamkata i.e. in the name of his wife (defendant no.2) by investing his own amount and half portion of the said land has been left for plaintiff no. 2. While constructing weighing bridge, plaintiffs or defendant no. 3 did not invest any amount and no any aid is given by them and therefore, plaintiffs and defendant no. 3 do

not have any right or possession over it. The defendant no. 2 also submitted that no objection and permission for the said business was also taken by himself only.

11] It is further submitted by the defendants that plaintiff no. 1 used to come to the defendant no. 1 as a labour and also his labour wages were being given to him. There is no any partnership deed between the plaintiffs and defendants in respect of the business of weighing bridge. The plaintiffs never demanded profit in the business of the weighing bridge and they have no any document regarding their share in the said weighing bridge. The defendant no. 2 has taken loan for the said weighing bridge and therefore, plaintiffs have no any right over it. It is prayed by the defendants that in order to grab weighing bridge, plaintiffs have filed this false application and further prayed to reject the said application filed by the plaintiffs.

**The brief facts of the defendants' case are as under-**

12] It is contended by the defendants that defendant no. 2 was having Rajlaxmi Traders company and Krushi Kendra at Amgaon, Ta-Amgaon, Distt. Gondia and there was dealing of agricultural products. The defendant no. 1 was in need of a faithful person for krushi kendra and therefore, as the original plaintiff no. 1 being his family member, he had been engaged to work in the shop. Plaintiff no. 1 was faithful and used to do work of sale and purchase of the grains as per say of the defendant no. 1. After getting well experience of work, plaintiff no. 1 started his new krushi kendra and used to work on his shop by doing his regular work in the shop of

defendant no. 1. Thereafter, business of weighing bridge was constructed in the name of defendant no. 2 as a proprietor. The plaintiff no. 1 has no concerned with the said business, however he came in the premises of weighing bridge and threatened to the operator that he will destroy said business if he did not get profit and accounts of said business. The plaintiff no. 1 was neither partner in the said business nor he invested any amount in it. The defendant no. 2 obtained loan for erection of weighing bridge and also obtained no objection certificates from various Govt. authorities. Defendants have constructed weighing bridge in the year, 2016, at that time, neither plaintiffs raised any objection nor obstructed said business. However, after receiving profits from the said business, the plaintiff no. 1 started obstruction for receiving share in the profit and became more greedy. Plaintiffs have never informed to them nor demanded any partition of the properties recorded jointly in the names of both the parties. They have never sent any legal notice for partition of jointly recorded lands and directly filed present suit for claiming partition. Thus, the intention of plaintiffs is clear that they are only interested in the business of defendant no. 2 instead of partition of properties. Defendants are ready to give their respective shares from the properties recorded jointly in the names of both parties. However, to grab the business of defendant no. 2, plaintiffs filed present suit with ill-will motive. Hence, as there is no any registered partnership deed and aforesaid business recorded solely in the name of defendant no. 2, they prayed to grant temporary injunction in their favour to protect their

business.

**13]** Plaintiffs filed their reply to the temporary injunction application of the defendants at Exh. 23 wherein, they have denied each and every contentions adversely levelled upon them. They contended that defendants filed false counter-claim and they are not liable for the relief of declaration and permanent injunction. Defendants have not come with clean hands before the Court. The properties i.e. Gat 65/2 and 67/2 are recorded in joint names both parties. Hence, injunction cannot be granted against co-sharers of the joint property. Defendants have very well aware of the facts. However, present application is filed by suppressing truth on record. Hence, plaintiffs lastly prayed to reject the application of defendants and to grant temporary injunction in their favour accordingly.

**14]** Heard Learned Advocates for plaintiffs and defendants at length. Perused application, reply, documents and record of the case.

**15]** The following points arise for my determination and I recorded my findings against each of them with reasons, as under.

<b>Sr. No.</b>	<b>POINTS</b>	<b>FINDINGS</b>
(1)	In whose favour prima-facie case appears?	.. <u>Either of none</u>
(2)	In whose favour, balance of convenience lies?	.. <u>Either of none</u>

(3) Who would cause irreparable loss, if ..Either of none  
temporary injunction is not granted?

(4) What order ? ..As per final order.

**: REASONS :**

**AS TO POINT No. 1 to 4 :**

16] As point no. 1 to 3 are inter-connected with each other, they are discussed herewith altogether. At the outset, it is the contention of plaintiffs that they along with defendants started business of weighing bridge which was constructed on land bearing Gat no. 65/2 and Gat no. 67/2 of mouza Shirpurbandh, Ta- Deori, Distt. Gondia. They have invested equal amount in the said business and run said business by way of partnership. Further, said business is running on the aforementioned land which is recorded in the names of both plaintiffs and defendants. Further, they contended that defendant no. 1 used to give half profit to plaintiff no. 1 at the end of every month which was earned from said business. In short, said business was being run jointly by both the parties. It is to be noted that to grant the relief of temporary injunction, plaintiffs ought to have shown and proved three parameters i.e. prima facie case, irreparable loss and balance of convenience lies in their favour.

17] The plaintiffs to prove their prima facie case relied on certain documents. Those are photo copies of Adhar cards of plaintiffs, certificates of verification, 7/12 extracts of land Gat no. 65/2, 67/2, 68/1/a, 69/2 and 69/1/b, mutation register of said Gat

numbers and five sale deeds of said Gat numbers. Plaintiffs also relied on affidavits of two persons namely Yograj s/o Chandu Bhandarkar and Radhesham s/o Bhopal Pardhi who deposed that both plaintiff no.1 and defendant no. 1 were jointly running aforesaid business of weighing bridge. After perusing aforesaid documents, it shows that Gat no. 65/2 is jointly recorded in the names of plaintiff no. 2 and defendant no. 2 and Gat no. 67/2 is recorded jointly in the names of plaintiff no. 1 and defendant no. 1. However, plaintiffs have not filed single document on record to show that aforementioned business is recorded jointly in the names of both parties. The aforementioned contentions of plaintiffs i.e. said business is a partnership business, they invested equal amount in the said business and the defendant no. 1 used to give equal share to him at the end of every month, are not proved and supported by any documentary evidence on record. On the contrary, certificate of verification filed by the plaintiffs itself shows that business is being run in the name and style as "Rajlaxmi Dharamkata". Name of either of the plaintiffs has not been recorded in said certificate.

**18]** Further, the defendants contended that defendant no. 1 constructed said weighing bridge on half portion of land bearing Gat no. 65/2 and remaining land is open for the use of plaintiffs. Said business is recorded in the name of defendant no. 2 only and defendants obtained loan from the Bank for running said business. At that time, plaintiffs were informed and with their consent, the business was established. However, after sometime, when the defendants were yielding profit from the said business, the plaintiff

no. 1 started quarreling with the defendants for receiving share in the profit by taking undue advantage of his name recorded in the land record where the business is erected. Said business is being run in the name of defendant no. 2 as a proprietorship and not a partnership. The defendants have obtained all requisite permissions and NOCs from the Government Authorities for said business and constructed weighing bridge on the half portion of aforementioned land in the year, 2016. The plaintiffs were very well aware of the fact, however they have not raised any objection at the time of construction of weighing bridge. The plaintiffs have neither demanded partition of the land nor objected said business before filing of the suit and hence, they have directly filed the present suit in the year, 2024 without sending any legal notice to the defendants for partition and separate possession. The defendants are ready for giving half portion of the plaintiffs' share in the all the lands which were jointly recorded in the names of both the parties. However, instead of demanding their share from the defendants, the plaintiffs filed present suit directly in the Court only with intention to grab the profits of the business of the defendants.

**19]** In order to prove the contentions of the defendants, they have relied on certain documents i.e. photo copies of certificate of verification issued by Inspector of Legal Metrology, Deori Division, Statement of Bank of account in the name of Rajlaxmi Traders, 7/12 extract of Gat no. 65/2, Bill in the name of defendant no. 2 issued by R. N. Trading Co. Nagpur, No objection certificate of Gram Panchayat, Shirpurbandh, Revenue receipts in the name of

defendant no. 2 issued by Talathi, Shirpurbandh. Defendants have also filed affidavits of two persons namely Tarachand Brijbhan Sarpa, Nitesh Eknath Bhandarkar and electricity bill in the name of defendant no. 2. After perusal of aforementioned documents, it clearly show that aforesaid business is solely recorded in the name of defendant no. 2 who is a proprietor of Rajlaxmi Dharamkata. Further, documents also reveal that business account in State Bank of India and electricity bill are recorded in the name of defendant no. 2. Hence, it can be considered prima facie that defendant no. 2 is a proprietor of the business and there was no partnership of the plaintiffs in the said business at any point of time. Hence, the contention of plaintiffs that they equally invested money in the said business and they are partners in it, is neither proved nor justified.

**20]** As far as the affidavits of the witnesses filed on record are concerned, I found that all the witnesses have deposed equally in favour of their respective parties. Hence, they cannot be considered at all without going through the test of evidence.

**21]** Now, the material thing has to be considered in the present case is that in whose favour, the prima facie case lies. From considering aforesaid documents, it is clear that plaintiffs failed to prove that they partners in the business, hence, prima facie case lies in the favour of defendants. However, for grant of temporary injunction, the defendants ought to have proved the fact that plaintiffs have threatened them to dispossess from the business and they are under apprehension that plaintiffs can disturb their business. The defendants filed counter-claim wherein they seek the

relief of Declaration and Permanent Injunction along with the temporary injunction. In present application of temporary injunction, defendants contended that plaintiff no. 1 came at the business premises and threatened to the operator of the business and told him to give money in every month to him otherwise he will close his business. To prove said contention, the defendant no. filed affidavit of one Tarachand Sarpa who deposed that he is working as a accountant in the weighing bridge and plaintiff no. 1 threatened him and told him to give the details of accounts of said business. It is to be noted that such contention of defendants appears to be vague and bold in nature. Neither any month, date and time and incident is mentioned nor any police complaint was lodged in respect of said incident. So also, the defendant first time raised such contention in the counter-claim only after filing the present suit. Had there been such fact that there is serious apprehension in the mind of defendants in respect of such disturbance in their business, they ought to have taken appropriate legal recourse within time. Therefore, it is neither justified nor logical to rely on such vague contentions of defendants that plaintiff no. 1 threatened to the operator of weighing bridge which is running by the defendant no. 2, to grant temporary injunction in their favour.

**22]** After considering the aforesaid discussion, I found that plaintiffs failed to show all the three parameters of temporary injunction lie in their favour. So also, defendants failed to show on record that the plaintiff no. 1 threatened to defendants and disturbed to the business of defendants. Thus, defendants have also

failed to show that they have strong prima facie case lies in their favour to grant present application. Further, the balance of convenience for grant of temporary injunction did not prove by either the parties. Hence, they also failed to prove that they suffered irreparable loss, if the injunction has not been granted. Hence, looking towards the facts and circumstances of the case, I record my answer as to point nos. 1 to 3 in Negative as not proved. Both parties have failed to prove point nos. 1 to 3, hence, their temporary injunction applications are liable to be rejected. Thus, as to point no. 4, I pass the following order:-

**: ORDER :**

- (1) Temporary Injunction application at Exh. 5 of plaintiffs is hereby rejected.
- (2) Temporary Injunction application at Exh. 21 of defendants is hereby rejected.
- (3) Cost in cause.

Date : 11/03/2026

**(V. S. Mendhe)**  
Civil Judge, Junior Division,  
Deori

**CERTIFICATE**

I affirm that the contents of this [P.D.F.](#) file order are same, word to word, as per the original order.

Name of the Stenographer : Sanjiwan Waman Malame  
Court : V. S. Mendhe  
Civil Judge J.D. &  
J.M.F.C., Deori.  
Date : 11.03.2026  
Order signed by the  
presiding officer on : 11.03.2026  
Order uploaded on : 11.03.2026