

MHJN020021962019

R.C.S.No.429/2019

Kesharbai-Vs-Nandabai &amp; Ors



**ORDER BELOW EXH.NO.117**  
**(Passed on dated 21<sup>st</sup> January 2025)**

1. The plaintiffs have filed present application for temporary injunction. According to them, they have filed present suit for possession of suit property Gat No. 160 situated at Kharpudi wherein defendant No.8 is Main Administrator CIDCO and defendant no.9 is Sub-Divisional Officer/Land Acquisition Officer. The land acquisition officer Jalna has published possession notice through direct sale method for the Jalna Kharpudi Navnagar CIDCO Project in daily newspaper Parshvabhumi on 02.08.2024. After purchase of the suit property there is possibility to award compensation in the name of defendant No.7. Therefore, the defendant no.8 to 9 be restrained from awarding compensation to the defendant no.7.

2. On the contrary, defendant no.7 has filed his say vide Exh.124 and strongly opposed the application filed by plaintiff. It is submitted that the plaintiffs have no concern with the suit property. Already suit is fixed for evidence of plaintiff. Therefore, application is liable to be rejected with cost.

3. Heard Learned Advocate for both parties and perused record. Considering rival submission of both parties, following points arise for determination and I have given findings thereon with the reasons mentioned below:-

<b><u>Sr No</u></b>	<b><u>POINTS</u></b>	<b><u>FINDINGS</u></b>
1.	Whether the prima-facie case is in favour of applicant/plaintiff ?....	...In the negative.
2.	Whether the balance of convenience lies in favour of applicant/plaintiff ? .....	...In the negative.
3.	Whether the applicant/plaintiff will suffer irreparable loss, if temporary injunction is refused ?.....	...In the negative.
4.	What order ?.....	...As per final order.

### **Reasons**

#### **As to point 1 to 3.**

**4.** It is not disputed that the plaintiffs have filed present suit for partition and separate possession of their share in the suit property Gat no.160, Adm.1H 65R situated at Mauje Kharpudi Jalna and for permanent injunction against the defendant no.1 to 9 by declaring sale deed no.1198/1997, 1199/1997 dated 30.04.1997 as null and void. The plaintiffs have come with the case that, suit property Gat no.160, 161 and 162 situated at Mauje Kharpudi are the part original S.no.91. it was owned by Shyama Shivram Nikalje as tenant. Out of which their father Bhaurao Mukundrao Bhosale had purchased 1H 61R land from Shyama Shivram Nikalje by way of sale-deed no. 839/1972 dated 18.04.1972 after obtaining required permission as per Tenancy Act. It was the property of Gat no.160 and he became owner and possessor of said land.

**5.** After purchasing the above said land their father was cultivating the same being owner of the land. However, in the mean

time their father shifted at Ulhas nagar and by taking disadvantage of his absence, mother of defendant no.1 to 5 Gayabai Gulab Kale had entered her name illegally in collusion with revenue official as per bogus Ferfar dated 05.05.2008. Further on the basis of said Ferfar the defendant no.1 to 5 have transferred suit property in the name of defendant no.6 without any ownership and thereafter defendant no.6 has illegally transferred to defendant no.7 by way of sale-deed 6388/2018. Their father Bhaurao Mukundrao Bhosale is expired on 08.08.2019. They being legal heirs of Bhaurao Mukundrao Bhosale have undivided share and ownership right in the suit land. However, defendant no.7 is in illegal possession of the suit land on the basis of bogus sale-deed. He has refused to hand over land and their shares.

**6.** The defendant no.7 has filed his detailed written statement vide Exh.86 and submitted that he has purchased suit land from defendant no.6 for the valuable consideration of Rs.1,31,00,000/- by way of registered sale-deed dated 10.10.2018. On that basis his name was entered in the revenue record. Now suit land is in his possession being owner. Moreover, the plaintiffs had knowledge of the sale purchase transaction between Bhaurao Mukundrao Bhosale and mother of defendant no.1 to 5 as he had sold the said land to mother of defendant no.1 to 5 during his life time. It was self acquired property of Bhaurao Mukundrao Bhosale and he sold the same to Gayabai Gulab Kale during his life time. Therefore, the plaintiffs have no concern with the suit land.

**7.** Already issues have been framed and plaintiff has filed her evidence affidavit vide Exh.113 and suit was fixed for further

chief examination and cross-examination of plaintiff.

**8.** Copy of registered sale-deed dated 30.04.1997 shows that Bhaurao Mukundrao Bhosale had sold 82R land out of 1H 65R of Gat no.160 situated at Mauje Kharpudi to Gayabai Gulab Kale for the consideration of Rs.29,000/-. Another copy of registered sale-deed dated 30.04.1997 of Gat no.160 Adm. 83R out of 1H 65R situated at Mauje Kharpudi shows that it was owned and possessed by Bhaurao Mukundrao Bhosale and he transferred the same to Gayabai Gulab Kale. So as on today already 82R and 83R land on Gat no.160 have been already transferred by father of plaintiffs Bhaurao Mukundrao Bhosale to Gayabai Gulab Kale. The present defendant no.7 Girish Pawar has purchased 65R land out of 1H 65R of Gat no.160 from Nandlal Meghawale that is defendant no.6 on 15.09.2018 by way of registered sale deed. His name has been entered in the revenue record.

**9.** At this prima facie stage, according to plaintiff possession notice is issued by the Land Acquisition Officer Jalna for Jalna Kharpudi Navnagar Project. It includes Gat no.160 Adm. 1H 65R that is suit land. The suit land is in possession of defendant no.7 as per sale-deed executed in his favour. The plaintiffs have apprehension that if the said land is acquired by the Government, compensation will be awarded to defendant no.7 as the revenue record in his name. However, they have already challenged all the sale-deeds in the present suit as those sale-deeds are null and void and plaintiffs have their undivided shares in the suit land.

**10.** As stated earlier, the plaintiffs have filed present suit for declaration of sale-deeds in dispute as null and void and partition of

their shares in the said land. Therefore, the issue of sale-deed and sale purchase transaction are legal or illegal is the part of evidence and needs to be decided on merit. Already issues have been framed in that respect and therefore if plaintiff succeeds in the suit on merit, they will be entitled to get recover the compensation amount from the defendant no.7. However, at this prima facie stage plaintiffs have no possession nor ownership in their favour. Therefore, needless to say that the plaintiffs have failed to establish prima facie case in their favour.

**11.** As regards, balance of convenience, as stated earlier the defendant no.7 has purchased the disputed land by way of registered sale-deed and is in possession of the same. Therefore, balance of convenience also lies in his favour. Moreover, as stated earlier the rights of plaintiff as claimed is yet to be decided. Therefore, in the circumstances no irreparable loss which cannot be compensated in money would be caused to the plaintiffs if no injunction is granted in their favour. Hence I answer point no.1 to 3 in the negative and answer to point no. 4 pass the following order.

### **ORDER**

1. Application Exh.5 filed by plaintiffs is rejected.
2. No order as to cost.
3. Application is accordingly disposed off.

Dictated, Typed and Pronounced in open Court.

Date:-21.01.2025.

(Madhuri R.Khanwe)  
Joint Civil Judge(Sr.Divn.)  
Jalna

**CERTIFICATE**

I stated that the contents of this PDF file are word to word as per original Order.

Name of Steno : Pratiksha B. Magare  
Name of Court : Jt.Civil Judge(Sr.Divn.),Jalna  
Date of PDF : 21.01.2025.

Steno(M)