

MHJN020023852025

RCS No. 709 of 2025
Mahendra & oth. Vs Gopal & oth.



ORDER BELOW EXH. 5

The plaintiffs have filed present suit for Permanent Injunction against the defendant no.1 from continuing his hunger strike, displaying the defamatory banner etc and against defendant no.2 from taking any coercive action of demolishing or issuance of notice to stop work etc against the plaintiffs.

02. It is the case of plaintiffs that, they are the owner and possessor of the suit property. The suit property was shown under reservation for garden in the development plan of Jalna city. Despite of many years defendant no.2 failed to acquired the same land. Consequently the plaintiff exercising his statutory right served a purchased notice upon the concerned authority of Maharashtra Regional and Town Planning Act,1966 and started construction over the suit property. The plaintiff applied for the construction permission to the defendant no.2 on 30.09.2021. However, defendant no.2 failed to communicate it's decision within statutory period of 60 days. Thus, the construction is carried out on the basis of deemed permission.

03. The defendant no.1 without any interest or locus-standee in the suit property started a hunger strike at a public place with a malicious intention to harass and extort money from the plaintiff. He has also made a complaint to the defendant no.2 for taking coercive action against the plaintiffs. Hence, the plaintiffs have knocked the doors of this court by way of filling the suit and the instant application.

04. The defendants appeared in the suit. However, failed to file their reply on record within a statutory period.

05. Following are the points for determination along with my findings there on for the reasons to follow.

Sr. No.	Points	Finding
1.	Whether the plaintiff has a prima-facie case?	Yes
2.	Whether the plaintiff would suffer irreparable loss if the application is rejected?	Yes
3.	Whether the balance of convenience is in favour of the plaintiff?	Yes
4.	What order?	Application allowed

REASONS

As to point No. 01 to 3

06. It is a well settled principle of law that while dealing with temporary injunction application, it must be seen that three test should be fulfilled and party claiming injunction should come before the court with clean hands. In accordance with settle position of law, it is necessary to find out first test that whether plaintiffs have prima-facie case or not?

07. As earlier mentioned the defendants failed to file their written statement on record, there is no denial of defendants to the claim of the plaintiffs. The defendants do not bother to file their say to the present application also. On the other hand, it is contention of the plaintiffs that, they have deemed permission for the construction over the suit property. The plaintiffs have placed on record the documents such as the construction notice, construction map etc. on record. The plaintiffs have also filed a

government resolution of the State of Maharashtra and a permission letter to the construction department of defendant no.2. which shows that the applicant had applied for the permission to construct over the suit property. However, no permission is granted or denied to the applicant till today. Hence, it may be called as a deemed permission. Thus, prima-facie, from the documents on record it appears that the plaintiffs have a prima-facie case in their favor. Thus, their rights in the suit property is need to be protected.

08. As discussed above plaintiffs have prima-facie case in their favor and on that basis, an arguable case is made out. However, mere presence of prima-facie case is not the sole criteria for granting injunction. Other two conditions i.e. balance of convenience and irreparable loss are also required to be established.

09. Balance of convenience means comparative mischief or inconvenience to the parties. The inconvenience to the plaintiff if temporary injunction is refused would be balanced and compared with that to the defendant if granted. Therefore, the court must be satisfied with the comparative mischief, hardship or inconvenience which is likely to be caused to the applicant by refusing the injunction will be greater than that which is likely to be caused to the opposite party by granting it.

10. In such circumstances, if the injunction is not granted, serious prejudice will be caused to the plaintiffs. Therefore, refusal of injunction would cause greater hardship to plaintiffs than the defendant. In such set of circumstances, nature of the suit property is required to be protected. It is also gathered from aforesaid discussion that balance of convenience lies in favor of the plaintiffs. In view of the aforesaid discussion it can safely be concluded that the plaintiffs have passed all three tests for grant of

temporary injunction. Hence, I answer points 1 to 3 in affirmative.

As to Point No.04 :-

11. In view of the findings given above, and to avoid future complications in the suit, I am inclined to pass following order.

ORDER

1. The application at Exh. 05 is allowed.
2. Non-applicant no.2 is directed not to take any coercive action against the plaintiff till the final decision of this suit.
3. Costs in main cause.

Date : 28.04.2026 Jana.		Sd/- (Supriya N. Pund) 3 rd Jt. Civil Judge (Jr.Dn.), Jalna
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CERTIFICATE

“ I affirm that, the contents of this PDF file are word to word as per original order ”.

Name of Steno :- U. R. Dasare
Name of Court :- 3rd Jt. CJJD Court, Jalna.
Date of PDF :- 28.04.2026.

Sd/-
Signature of Stenographer.