

MHJN040022182024



R.C.S. No.292/2024  
Kalyan Vs Bharat & Ors.

**ORDER BELOW EXH - 5**

(Passed on 17<sup>th</sup> March 2025)

1. The Plaintiff has preferred this application under Order XXXIX Rule 1 & 2 for grant of Permanent Injunction to restrain the defendants from causing obstruction to the possession of plaintiff in respect of land bearing Gat No.26, total area 8 H. 62 R, Assessment Rs.22.20/- out of which 00 H. 56 R land situated at Village Khadkeshwar, Taluka Ambad, District Jalna. Four boundaries of which are as under.-

- Towards East** - Cart Road.  
**Towards West** - Land of Kantabai Ubale.  
**Towards South** - Road.  
**Towards North** - Land of Pandit Ubale family.

(Hereinafter referred to as the “suit property”)

2. The present suit is filed for Permanent Injunction. According to the plaintiff, 1 Hectare 62 R land in Gat No.26 was purchased by Kantabai Ubale from Vimalbai Ubale on 14.02.1995. Thereafter, plaintiff and Kantabai Ubale equally partitioned 1 H. 62 R land. Accordingly, the plaintiff has become owner of the half portion. Since, plaintiff resides at Jalna, he is cultivating his land through labourers and defendants are also helping him in cultivation. Meanwhile, taking undue advantage of absence of the plaintiff, the defendant No.4 has fraudulently mutated her name on 00 H. 40 R land of the suit property on 04.03.2012. The plaintiff has initiated necessary proceeding before revenue authorities for cancellation of mutation entries No.412 & 537.

3. The defendant No.4 has further executed sale deed of said 40 R land in favour of the defendant No.4 on 04.06.2024. Mutation entry No.1042 was effected in favour of defendant No.1 that is also subject matter of proceeding before revenue authorities. Similarly, 00 H. 25 R land of the plaintiff was acquired by Government on 14.12.2009. It is the contention of the plaintiff that defendant No.1 to 4 are causing obstruction to the peaceful possession of the plaintiff over 40 R land. In spite of request of the plaintiff, the defendants have continued obstruction. Hence, present application.

4. Defendant No.1 to 4 filed written statement and say at Exh.12. They have denied contentions of the plaintiff. It is specifically stated that the plaintiff himself has transferred 40 R land to defendant No.4 vide mutation entry No.694 and 41 R land vide mutation entry No.537 after demise of his father. It is further contended that the plaintiff has wrongly mentioned the area of the suit property and numbers of mutation entries. Therefore, they prayed for dismissal of the application.

5. Perused application and documents. Heard Both sides. Following points arose for determination and I have recorded findings alongwith the reasons for them as under: -

<b>S. No.</b>	<b>POINTS</b>	<b>FINDINGS</b>
1.	Whether the plaintiffs have prima facie case?	In negative
2.	Whether balance of convenience lies in favour of the plaintiff ?	In negative
3.	Whether the plaintiff will suffer irreparable loss, if temporary injunction is not granted in his favour?	In negative
4.	What order?	Application is rejected

**REASONS****AS TO POINT NO. 1 TO 4 -**

6. In support of his contentions, the plaintiff has relied upon 7/12 extract of Gat No.26 and mutation entry No.204. The defendants have not annexed any documents. Perusal of 7/12 extract shows that the name of the plaintiff is nowhere mentioned. However, mutation entry No.204 shows that Vimalbai has sold 1 H.62 R land to Kantabai and the plaintiff vide sale deed dated 14.02.1995. So far as claim of the defendant in respect of ownership of the suit property is concerned, it is to be noted that 7/12 extract filed by the plaintiff shows names of defendants as owner. 7/12 extract is filed as of 26.08.2024 which is latest. The plaintiff stated that he has challenged mutation entries before revenue authorities. However, he has not filed any document to that regard. Therefore, as of today name of the defendants are mentioned in 7/12 extract to show prima facie possession. Considering material on record, there is nothing on record to show possession of the plaintiff over the suit property. In such circumstances, no prima facie case is seen in favour of the plaintiff.

7. Coming to the point of irreparable loss and balance of convenience, it is pertinent to note that mutation entries in favour of defendants are not yet cancelled as of today. There is no challenge to sale deed executed defendant No.4 in favour of defendant No.1. It is mentioned that if the defendant continued to obstruct, the plaintiff will suffer irreparable loss. However, where the plaintiff failed to make out prima facie case, question does not arise to consider other factors. Accordingly, point No.1 to 3 are answered in negative and to answer point No.4, following order is passed -

**-ORDER-**

- i) Application is rejected .
- ii) Parties to bear their own cost.

Date: 17.03.2025

( S. S. Jain )  
Jt. Civil Judge Jr. Division,  
Ambad.

**CERTIFICATE**

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

Name of Steno : - S. M. Sapkal

Name of Court :- Jt.Civil Judge Junior Division,  
Ambad.

PDF Date :- 17.03.2025

Sd/-  
**Steno**