

IN THE COURT OF CIVIL JUDGE JUNIOR DIVISION, BHOKARDAN
PRESIDED OVER BY M.R. KALE
Regular Civil Suit no. 241/2024

Plaintiffs	:-	Chitra Satishrao Parasher, Age: 65 yrs, Occu.: Agriculturist, R/o. Malegao (Kariyat), Parner Tq. Nandgaon Dist. Nashik
Advocate for plaintiffs	:-	Shri. N.M. Deshpande
		Vs
Defendants	:-	Naresh Kashinathprasad Tharewal, Age: 70 yrs, Occu.: Agirculturist, R/o. Mahora, Tq. Jafrabad, Dist. Jalna & oths.
Advocate for defendants	:-	Shri. PN.Kad

ORDER BELOW EXH.28

(Passed on 12.02.2026)

Present application is filed by the plaintiff with the prayer to temporarily restrain defendants from creating any kind of third party interest in the suit property till final disposal of this suit.

Description of the suit property:-

02. Property situated at Bhokardan, Tq. Bhokardan, Dist. Jalna specifically mentioned in plaint and which bears following description in brief-

Sr. no.	Survey no.	Area
1.	71	31 Acres 11 Gunthas

Contention of plaintiffs in brief:-

03. Suit is filed for the relief of partition and cancellation of all sale deeds executed by defendant no. 1 and 2 in favour of defendant no. 6 to 22. The plaintiff is having 1/6th share in the suit

property. All sale deeds executed by defendant no. 1 and 2 are illegal.

04. The plaintiff has never given her consent to sale deeds executed by defendant no.1 and 2. The plaintiff is having apprehension that defendants may create third party interest in the suit property. Therefore, the plaintiff prayed to allow the application with the prayer mentioned above.

Say of defendant no. 6/1 and 6/2

05. They filed say that they will not create third party interest in the suit property.

Say of defendant no. 3, 4/A, 4B, 4/C and defendant no. 5

06. They admitted the suit by filing say at Exh. 26.

Say of defendant no. 13 and 16

07. Suit is false and frivolous. Suit is bad for the non joinder and misjoinder of the parties to the suit. No cause of action arose to file the present suit. All sale deeds executed in favour of defendant no. 13 and 16 are legal and valid.

08. The plaintiff is admitting the fact that defendant no. 1 Naresh was karta of family of plaintiff and defendant no. 1 to 5. In the capacity of karta he has executed the sale deeds in favour of defendant no. 13 and 16. Rest of the contentions raised by the plaintiff are false.

09. Defendants have purchased the suit property by way of registered sale deed and they are bonafide purchasers. Defendants are enjoying suit property in the capacity of owner. Therefore, they prayed to reject the application.

Say of defendant no. 15, 17, 19, 20 and 22 (Exh.35)

10. Suit is false and frivolous. Suit is bad for non joinder and misjoinder of parties. In the year 1998 defendant no. 15 has purchased the property out of suit property from defendant no. 3.

11. Defendant no. 17 has obtained property out of suit property by way of partition in the year 2018. Father of defendant no. 17 has purchased the property out of survey no. 71 from one Masood

Kalim in the year 2010. Regarding the said property defendant no. 17 has also obtained N.A. permission from the competent authority.

12. Defendant no. 19 and 20 have also purchased 5 R land out of survey no. 71 from Abdul Ajij Abdul Gani in the year 2021. Defendant no. 22 has also purchased 5 R land out of survey no. 71 from Babasaheb Murkute in the year 2020.

13. Therefore, all of them prayed to reject the application.

14. Perused the record. Heard Ld. Advocates for both parties at length.

15. Suit is proceeding exparte against defendant no. 1,2,7,8, 9 to 12 and 18. Despite appearing in the present suit defendant no. 6 and 21 failed to file their say therefore, no written statement order was passed against them.

16. After considering contentions in the application and submissions made by advocate for plaintiffs following points arises for my determination. Findings to these points as well as reasoning over it is mentioned below-

Sr. No.	Points for determination	Findings
1]	Whether plaintiffs have prima- facie case?	In the affirmative
2]	Whether plaintiffs have balance of convenience in their favour ?	In the partly affirmative for defendant no. 1 and 2
3]	Whether plaintiffs will suffer an irreparable loss if temporary injunction is not granted ?	In the partly affirmative regarding defendant no. 1 and 2
4]	What order ?	Application is partly allowed

17. From the pleading of the plaintiff following points are coming on the record.

i) The plaintiff is sister of defendant no. 1 to 5.

- ii) The suit property was originally owned by Kashinath Prasad Tharewal.
- iii) After the death of Kashinath Prasad Tharewal suit property is mutated in the name of defendant no. 1 Naresh in the capacity of karta of family of the plaintiff and defendant no. 1 to 5.
- iv) Defendant no. 6 to 22 are the purchaser of the area out of the suit property from defendant no. 1 to 5.
- v) Defendant no. 6 to 22 are in possession of suit property to the extent the area they have purchased.
- vi) Out of suit property as on today no property is mutated in the name of defendant no. 3 to 5 and only to the suit property names of defendant no. 1 and 2 is mutated to the area mentioned before their respective names.

POINT NO. 1 :-

18. The plaintiff is coming with case that she is having birth right in the suit property and defendant no. 1 to 5 without her consent executed registered sale deeds in favour of defendant no. 6 to 22.

19. On the other hand defendant no. 6 to 22 are objecting the application on the ground that the plaintiff is admitting the fact that Naresh was karta of her family. They are further objecting the application on the count that transactions which plaintiff is challenging are old one and all those transactions are registered in nature.

20. To prove the factum of birth right the plaintiff has produced 7/12 extract of the suit property at Exh. 4/2. Said 7/12 extract of the suit property prima-facie shows that after the death of Kashinath suit property is mutated in the name of Naresh in the capacity of joint family manager i.e. karta.

21. Further mutation entry no. 161 produced by the plaintiff prima-facie shows that the plaintiff is sister of defendant no. 1 to 5.

22. Mutation entry no. 689 prima-facie shows that Naresh Kashinath Tharewal has partitioned the suit property between

himself and defendant no. 1 to 3 as well as mother of the plaintiff by allotting 1H 55R land to each of them on 23.07.1999.

23. Therefore, above mentioned documents are prima-facie reflecting the fact that after the death of Kashinath i.e. father of plaintiff and defendant no. 1 to 5 the plaintiff was having right in the suit property.

24. Amendment entitling birth right to daughters in the co-parcenary property was brought into force in the year 2005. The said right is available to daughter only when partition has not taken place regarding the co-parcenary property.

25. As mentioned above it is prima-facie seen that after the death of Kashinath suit property was in the hand of defendant no. 1 in the capacity of karta and mutation entry no. 689 prima-facie shows that Naresh has partitioned suit property between himself and defendant no. 1 to 3 and his mother by allotting share in the suit property. Therefore, whether plaintiff is having birth right in the suit property or right to claim property in the property of deceased Kashinath is a part of trial.

26. But by leading documentary evidence in the form of mutation entries the plaintiff has proved her relationship with defendant no. 1 to 5 as well as prima-facie right in the suit property. The extent of such right can be adjudicated only after the trial. Therefore, it is prima-facie proved by the plaintiff that there is a genuine question regarding right of plaintiff in the suit property is involved in the present suit therefor for point no. 1 I am answering in the affirmative.

POINT NO. 2

27. Pleading of the plaintiff as well as documents produced by the plaintiff on record shows that the plaintiff is challenging sale deeds executed in the year 1982 to 2020. All these sale deeds are prima-facie seen to be registered in nature.

28. Granting of temporary injunction is an equitable relief. Equitable relief aids to the person who is vigilant about his right.

29. As mentioned above since 1982 to 2020 defendants are enjoying the suit property in the capacity of owner as well as it is admitted fact to the plaintiff that defendant no. 1 Naresh was karta of family of the plaintiff as well as defendant no. 1 to 5 after the death of father of the plaintiff.

30. 7/12 extract of the suit property produced by the plaintiff prima-facie shows that as on today out of the suit property still some part of suit property is mutated in the name of defendant no. 1 Naresh and defendant no. 2 Rajesh.

31. As mentioned above what share is available to the plaintiff in the suit property is a part of trial. Therefore, if defendant no. 6 to 22 are restrained from enjoying their right in the suit property which is obtained by them by way of registered documents it will unnecessarily puts an hardship in their lawful right which they are enjoying since 1982 till the filing of present suit particularly when since 1982 till filing of the present suit the plaintiff failed to exercise her lawful remedy regarding the suit property.

32. Therefore, for defendant no. 6 to 22 balance of convenience lies in their favour only instead of the plaintiff.

33. As mentioned above prima-facie it is seen that defendant no. 1 and 2 have executed multiple sale deeds regarding the suit property. As mentioned above today out of the suit property certain property is still mutated in the name of defendant no. 1 and 2. In the present suit defendant no. 1 and 2 also failed to remain present despite issuing notice to them. Therefore, for defendant no. 1 and 2 balance of convenience lies in favour of the plaintiff regarding apprehension raised by the plaintiff that defendants are involved in activity to create third party interest in the suit property.

34. Therefore, considering above mentioned reasons for point no. 2 I am answering in the partly affirmative to the extent of defendant no. 1 and 2.

POINT NO.3

35. As mentioned above defendant no. 6 to 22 have obtained interest in the suit property by way of registered sale deeds. As

mentioned above since 1982 to 2024 the plaintiff was totally silent regarding availing her right in the suit property when multiple transactions regarding the suit property were going on.

36. As mentioned above granting of temporary injunction is an equitable relief and not an absolute right of party to claim it. Therefore, as defendant no. 6 to 22 have obtained interest in the suit property by way of registered documents as well as plaintiff herself is admitting the fact that defendants are in possession of the suit property in this situation if temporary injunction is granted against defendant no. 6 to 22 then those are defendant no. 6 to 22 who will suffer an irreparable loss.

37. As mentioned above still as on today property is prima-facie seen to be mutated in the name of defendant no. 1 and 2. Considering registered transactions have already taken place regarding the suit property if defendant no. 1 and 2 continuously involved in creating third party interest in the suit property then as compare with defendant no. 1 and 2 it is the plaintiff who will suffer an irreparable loss particularly when despite issuing notice defendant no. 1 and 2 failed to appear and file their say to the present application.

38. Therefore considering above mentioned reasons for point no. 3 I am answering in partly affirmative.

POINT NO.4.

39. It is settled principle of equity that equity helps to those who are vigilant about their rights. As mentioned above since, 1982 to 2024 plaintiff was totally silent regarding her right in the suit property. On the other hand defendant no. 6 to 22 are in possession of the suit property and enjoying it since execution of registered documents in their favour. Therefore, for defendant no. 6 to 22 the plaintiff is not entitled to get any equitable relief at this stage of the suit.

40. On the other hand as the plaintiff prima-facie proved her relationship with defendant no. 1 and 2 and prima-facie proves her interest in the suit property the plaintiff is entitled to get temporary

injunction against defendant no. 1 and 2 in whose name still some part out of the suit property is mutated. Therefore, considering above mentioned reasons I pass following order.:-

ORDER

01. Application is partly allowed.
02. Defendant no. 1 and 2 are restrained from creating any kind of third party interest in the suit property till final disposal of the present suit.
03. Prayer regarding rest of defendants is rejected.
04. Parties to bear their costs.

Date: 12.02.2026

(Mayuresh R. Kale)
Civil Judge (J.D.),
Bhokardan

CERTIFICATE

I affirm that the contents of this PDF file Order/Judgment are same word to word as per the original Order/Judgment.

Name of Steno/Clerk	:	G.M.Padol
Court	:	CJJD & JMFC, Bhokardan
Date	:	12.02.2026
Judgment/order signed by the Presiding Officer on	:	12.02.2026
Judgment/Order uploaded on	:	14.02.2026