

R.C.S No. 217/2025
Vidhyadhar (Kiran) -Vs- Madhav + 7
ORDER BELOW EXHIBIT- 5

This is an application for temporary injunction filed by the plaintiff under Order XXXIX Rule 1, 2, 3 read with Section 151 of the Code of Civil Procedure, 1908.

2. The plaintiff contends that, he is the owner and possessor of the suit property gut no.112, OR 45R situated at Papal Tq. Jafrabad. He submitted that, the defendants are the owners and possessors of the field gut No.335 which is situated adjacent to the suit property and the defendants are allegedly attempting to create a way through his field by destroying standing crops. He further submitted that, the way to the defendants is only till gut No.112 and no more. It is also submitted that, the plaintiff has challenged the said order of Tahsildar allotting way to the defendants, by filing appeal before the competent revenue authority, which is still pending. He submitted that, the defendants assaulted his cultivator Kiran who is the power of attorney holder of the plaintiff on 09/07/2025. Therefore, prayed to restrain defendants by temporary injunction.

3. The defendants no. 1 to 8 have filed reply (Exhibit-13) and opposed the application contending that the suit is filed through power of attorney holder i.e. Kiran who is the cultivator of the suit property. It is submitted that the defendants made application to Tahsildar on 07/07/2023 for getting way to approach their field from the suit property and the Tahsildar has conducted spot panchnama on 23/09/2024 regarding the suit property and the available way for defendants. Accordingly, the Tahsildar found obstructions made by the plaintiff on the way of defendants and removed the obstructions with the Police aid. The defendants submitted that the plaintiff is again creating obstruction in the same manner and the defendants are unable to cultivate and harvest the crops. It is submitted that the plaintiff has no prima facie case and prayed to reject the application.

4. Perused application, reply and record. Heard both sides,
5. After considering pleadings, submissions of the plaintiff and documents filed on record. The following points arise for my determination.

Sr.No.	Points	Findings
1.	Whether the plaintiff has a prima facie case?	Negative
2.	Whether balance of convenience lies in his favour?	Negative
3.	Whether plaintiff would suffer irreparable loss if prayer for injunction is refused?	Negative
4.	What Order?	Application is rejected.

Documents relied by the Plaintiff:

6. The plaintiff in support of his application filed documents at list **Exhibit-4** i.e. 7/12 extract of the suit property, copy of NC No.373/2025, Original Power of Attorney, Original copy of Agreement of cultivation dated 30/06/2025. The defendants have not filed any document.

Documents relied by the Defendants:

7. The defendants had filed copy of applications dt.07/07/2023, copy of panchanama dt.27/09/2023, copy of order of Tahsildar dt.18/06/2024, copy of stay application dt.27/05/2025, copy of Revision Petition dt.27/05/2025 and copy of 7/12 extract of gut no.98, 99, 335, 112.

Reasons as to point nos. 1 to 3:-

8. In order to avoid repetition of facts all the above points are discussed together.

9. Plaintiff filed this application for temporary injunction against defendants to restrain them from obstruction in the suit property i.e. destruction of the crops and from attempting to create new way from the suit property. This application is for invoking discretionary relief under

Order XXXIX of the Code of Civil Procedure, 1908. The object of granting temporary injunction is a provisional remedy that is invoked to preserve the subject matter in its existing condition till the disposal of the suit. Its main purpose is to prevent dissolution of the plaintiff's right. The foremost reason for usage of relief of temporary injunction is the need for immediate relief to the applicant on the basis of circumstances that warrants grant of the injunction.

10. In order to prove prima facie, case the plaintiff has filed the copy of 7/12 extract to show his ownership and possession over the suit property. Perusal of the agreement of the cultivation, it appears that the plaintiff cultivate his field through Kiran Gambhir More, who is the power of attorney holder in the present suit. The plaintiff has filed this suit for the relief of permanent injunction. The plaintiff's submission that the defendants are attempting to create new way from the suit property and causing destruction of the crops planted by him. The plaintiff has filed the copy of N.C. report filed by him with Police Station Tembhurni. Perusal of the report it appears that the plaintiff has filed complaint with police regarding alleged assault and abused by the defendants. However, the report do not disclose any specific material that the defendants has created any obstructions. On the contrary, the report and its contents prima facie suggest that the dispute was raised by the defendants over the issue of approaching way for the defendants.

11. Perusal of the record it reflects that the plaintiff has the prima facie ownership and possession of the suit property. It further appears from the submissions of the parties that there is way for the defendants along the suit property. It appears that the field gut No.112 is adjacent to defendants gut No.98, 99 and 335. Perusal of the order of Tahsildar, it reflects that the obstruction created by the plaintiff in the way of defendants was removed by the Tahsildar and defendants were granted way to their fields from the gut No.112 i.e. the suit property. It further appears that the defendants

were given the directions not to caused any damages to crops of plaintiff while using the way in gut No.112. \

12. The available documents and the submissions of the parties, it prima facie show that the approach way for the defendants is granted by the revenue authority by following due procedure. It is evident that the plaintiff is aggrieved by the order of Tahsildar and therefore he has challenge the order before appellate authority. This reflects that the order of Tahsildar regarding way for the defendants is intact and the plaintiff and defendants are contesting against each other. The submissions of the plaintiff that he is not party to the revenue proceeding cannot be held as proper, as the revenue authority appears to have granted approach way to the defendants from gut No.112 to approach in gut No.98, 99 and 335 belonging to the defendants. It is also prima facie establish that defendants are using the way in pursuance to the order of Tahsildar. Hence, the balance of convenience also does not lie in favour of the plaintiff.

13. Considering the documents and submission of the plaintiff and defendants, the third principle of issuance of temporary injunction i.e. irreparable loss, the plaintiff has failed to show prima facie case and therefore he has also failed to show that no any irreparable loss would be caused to him if injunction is refused. On the contrary, the documents shows that the issuance of temporary injunction against the defendants would cause irreparable cause to them by preventing them to harvest their crops. Hence, I answer point No.1 to 3 in the negative and in answer to point No.4 pass following order.

ORDER

The application for a temporary injunction is rejected.

Dt. 17.10.2025

(A.N.Khatade)
Civil Judge Junior Division,
Jafrabad.

CERTIFICATE

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

Dt. 17.10.2025

Sd/-xxx
(Ahmad Shaikhh)
Stenographer.