

MHKO080000732026



Presented on : 27/01/2026

Registered on : 27/01/2026

Decided on : 22/04/2026

Duration : Y M D  
00 03 05

**IN THE COURT OF DISTRICT JUDGE -1 GADHINGLAJ,**  
**DIST. KOLHAPUR**  
**( Presided over by M. A. Shinde )**

**Misc. Civil Appeal No.3/2026**  
**Exh. No. 34/A**

- 1) **Shri. Kedari Yallappa Patil,**  
Age-75 Yrs. Occup. Agriculture,  
R/o. Patane Phata, Tal. Chandgad,  
Dist. Kolhapur.  
Mobile No.8073051228
- } ..Appellant

**//Versus//**

- 1) **Administrator, Grampanchayat**  
Majare Karve, Tal. Chandgad,  
Dist.Kolhapur.
- 2) **Village Officer, Grampanchayat**  
Majare, Karve, Tal. Chandgad,  
Dist. Kolhapur.
- 3) **Shri. Satuppa Ramchandra Patil,**  
Age-70 Years, Occup. Pensioner,  
R/o. Majare Karve, Tal. Chandgad,  
Dist. Kolhapur.  
Mobile No. NA  
email-NA
- 4) **Shri. Arjun Narayan Patel,**  
Age-75 Years, Occup. Business,  
R/o. Majare Karve, Tal. Chandgad  
Dist. Kolhapur  
Mobile No. NA  
email-NA
- } ..Respondents

- 5) **Shri. Dilip Nagoji Parit,**  
Age-46 Years, Occup. Agriculture,  
R/o. Majare Karve, Tal. Chandgad  
Dist. Kolhapur
- 6) **Shri. Ramesh Mahadev Yadav,**  
Age-61 Years, Occupation- Agriculture,  
R/o. do.  
Mobile No. NA  
email-NA
- 7) **Shri. Devappa Bhagoji Bokade,**  
Age-77 Years, Occupation- Agriculture,  
R/o. do.  
Mobile No. NA  
email-NA
- 8) **Shri. Pandurang Krishna Benake,**  
Age-45 years, Occupation- Agriculture,  
R/o. do.  
Mobile No. NA  
email-NA
- 9) **Shri. Maruti Bhagoji Benake,**  
Age- 72 years, Occupation-Agriculture,  
R/o. do.  
Mobile No. NA  
email-NA
- 10) **Shri. Shivaji Jotiba Tupare,**  
Age-74 Years, Occupation-Agriculture,  
R/o. do.  
Mobile No. NA  
email-NA
- 11) **Shri. Tanaji Pandurang Gadkari,**  
Age-74 Years, Occupation-Agriculture,  
R/o. do. Mobile No. NA  
email-NA
- 12) **Shri. Subhash Punappa Patil,**  
Age-74 Years, Occup. Agriculture,  
R/o. do -, Mobile No.NA  
email- NA.

..Respondents

**Appearance :-**

Ld. Advocate, Shri. S.B. Desai for the Appellant.

Ld. Advocate, Shri. R.B. Patil, for the Respondents.

**J U D G M E N T****(Delivered on 22<sup>nd</sup> April, 2026)**

1. The present miscellaneous civil appeal is moved by the original plaintiff being aggrieved and dissatisfied with the order passed below Exh.5 in Regular Civil Suit No.42/2025 on 13/01/2026, whereby the Ld. Civil Judge has rejected the application.

2. It is the case of the plaintiff that, Grampanchayat Milkat No.298 situated at Majare- Karave, Tal. Chandgad, Dist. Kolhapur, admeasuring 90 Sq. ft open land along with 374 Sq. ft on house and 175 Sq. ft., RCC building. The four boundaries of which are more particularly described in para-1 of the plant (Hereinafter referred to as 'the suit property' for short). The plaintiff has purchased the suit property and he is owner and possessor of it. However, the Grampanchayat Majare-Karve issued a notice to him dated 12/07/2025 alleging that the plaintiff has encroached on Grampanchayat land which was duly replied by the plaintiff on 29/07/2025. In spite of the said replied, the defendants including the officials of Grampanchayat are bent upon to disturb the peaceful possession of the plaintiff over the suit property. Hence, the plaintiff is compel to file suit for declaration injunction.

3. The defendants have appeared and filed their written statement and opposed the suit. They have contended that, the suit property was originally owned by Sou. Geeta Chandrakant Kapashikar. She secured any order from Sub-Divisional Officer, Gadhinglaj in respect of Gat No.321, admeasuring 73, by the order dated

19/05/1994 and 32 plots are demarcated. The plaintiff and others have purchased 1 to 32 plots admeasuring 2.10 Are by registered Sale deed bearing its Registration No.600, dated 18/08/1994. The plaintiff was allotted plot No.32. At present it is numbered as Grampanchayat Property No.298.

4. It is specifically disputed that, on Northern side of the plot No.32 there is Belgav-Vengurla road. It is specifically contended that, there is open land adjoining to plot No.32 towards North side and thereafter there is Belgav-Vengurla road. The said open land is numbered as Grampanchayat Property No.854. Therefore, the property owned by the plaintiff bearing its Grampanchayat Property No.298 has nothing to do with Grampanchayat property No.854 which is situated towards North side of Gat No.298. Therefore, the defendants have specifically disputed the four boundaries of the suit property. Hence, prayed to reject the application filed by the plaintiff below Exh.5.

4. The record further shows that, the Ld. Civil Court after hearing both the parties has rejected the application below Exh.5 by his impugned order dated 13/01/2026. Therefore, being aggrieved and dissatisfied with the findings recorded by the Ld.Civil Court the plaintiff has moved the present Misc.Civil Appeal on the grounds more prescribely mentioned in appeal memo.

5. Perused the record. Heard both the parties. Following points arise for my determination and my findings thereon recorded as under :-

<u>Sr. No.</u>	<u>POINTS</u>	<u>FINDINGS</u>
1)	Whether the plaintiff proves prima facie case?	In the negative.
2)	Whether balance of convenience lies in	In the negative.

	favour of plaintiff?	
3)	Whether irreparable loss will be occurred to the plaintiff in interim injunction order is not passed in his favour?	In the negative.
4)	Whether any interference is required in the impugned order dated 13/01/2026 passed by Ld. Civil Court in Regular Civil Suit No.142/2025?	In the negative.
5)	What order?	Appeal is dismissed with costs.

### **REASONS**

#### **As to Point Nos.1 to 4 :-**

5. Assailing the findings recorded by the Ld. Civil Court, the learned Counsel Shri. S.B. Desai for plaintiff/appellant has submitted that, the Ld. Civil Court has not considered that the facts and law in their proper prospective. He submitted that, the peaceful possession of the plaintiffs since long is required to be protected. The so called Grampanchayat Property No.854 is not legal and there is nothing on record to show that, the said open land No.854 is owned by the Grampanchayat. Therefore, he submitted to allow the present appeal. During his course of arguments, he relied on following case laws :-

- 1) **Sakhahari Vs. President, Swarajya Shikshan Sanstha, (2022) 1 ALL MR 580.**
- 2) **Jayprakabh Karekar Vs. Laxmi Vaman Raut, (2020) 3 ALL MR 377.**
- 3) **Vishal Bhagwan Chandanshive and Anr. Vs. Sangli, Miraj and Kupwad City Municipal Corporation, Sangli, 2018 Supreme (Bom) 152.**

6. On the other hand, the Ld. Counsel, Shri. R.B.Patil for the respondents supported the impugned order passed by the Ld. Civil

Court and pointed out that, on perusal of the documents, the plaintiff was allotted with a specific area in the sale deed and the said area has nothing to do with Grampanchayat Property No.854. Therefore, he submitted that, the plaintiff has not properly described the four boundaries of the suit property and therefore prayed to reject the application. During his course of arguments, he relied on following case laws :-

1. **Lucy Narona Vs. Raghunath Jew Bije, [1992(2) (Civil LJ 694]**
2. **Chhauri Math and Abdul Majid and Ors. Vs.Abdul Ghaffar and Ors., 1997 A I H C 2933.**

7. I have carefully gone through the impugned order as well as the record placed before me. The sale deed which is executed by the original owner in favour of the plaintiff including other plot holders discloses that, the plaintiff was allotted plot No.32 which is admeasuring 2.1 guntha. Layout plan is also attached with the sale deed. On perusal of the said layout plan the plot No.32 is situated on the North side of the entire land in which the plots are demarcated. However, on Northern side there is no Vengurla– Belgav road adjacent to plot No.32. There is open space in between plot No.32 and Belgav-Vengurla road. Therefore, the Ld. Civil Court has properly appreciated the facts. Therefore, the learned Counsel Shri.R.B.Patil for the respondents has rightly relied on the case of **Lucy Narona Vs. Raghunath Jew Bije Chhauri Math (Supra) and Abdul Majid and Ors. Vs.Abdul Ghaffar and Ors.,(Supra)** on the point of description of the suit property as per O.7, R.3 of the Code of Civil Procedure. So far as, the case law relied on by the learned Counsel Shri. R.B.Desai for the plaintiff. They are on the point of parameters applied to consider the temporary injunction application and description of the suit property.

But the same are not helpful to the plaintiff in the present case, in view of above discussion. Learned Counsel further relied on **Vishal Bhagwan Chandanshive and Anr. Vs. Sangli, Miraj and Kupwad City Municipal Corporation, Sangli (Supra)**.

*“In such situation, when there is a clear finding recorded that the road of Municipal Council is not 100 ft. but 60 ft. and there is an open space in between and admittedly the Appellants in that suit were not held to be in possession thereof, then it necessarily follows that it is the Petitioners who are in possession of the said strip of land. If it is so, then it follows that their possession of the said strip of land. If it is so, then it follows that their possession needs to be protected, which was tried to be disturbed on the basis of the judgment of this Court in Second Appeal. To this limited extent, therefore, both the trial Court and the Appellant Court should have allowed the application for interim injunction filed by the Petitioners at Exhibit-5, thereby restraining the Respondent from causing obstruction to the possession of the Petitioners, without following due process of law. If ultimately the Respondent is proved to be the owner of the suit property, then definitely Respondent has right to dispossess the Petitioners but till that issue is decided or till the Respondent follows the due procedure, the Petitioners cannot be disturbed or dispossessed from their settled possession.”*

8. However, as discuss above the strip in between Belgav - Vengurla road and plot No.32 is in the name of Grampanchayat Majare-Karve and the plaintiff cannot claim possession on it as he has purchased only plot No.32, admeasuring 2.1 Are is does not include the said open space in between plot No.32 and Belgav-Vengurla road. Therefore, said ratio is also not helpful to the appellant in the present case. Thus, the plaintiff failed to prove above points and thus I answer above points in the negative. No interference is required in the impugned order passed by the Ld. Civil Court. Hence, following order is passed.

**ORDER**

1. The appeal is dismissed with costs.
2. Order of status-quo granted till today is vacated.

(Dictated and pronounced in open Court.)

Date: 22/04/2026.

( M. A. Shinde )  
District Judge-1, Gadhinglaj.