ORDER PASSED BELOW EXH.5
IN SPECIAL CIVIL SUIT NO.17/2026

[CNR No.MHKO090001332026]

This interim application has been filed by the plaintiff under Order 39 Rules 1 and 2 of the Civil Procedure Code, 1908 read with Sections 38 and 39 of the Specific Relief Act, 1963, seeking the following reliefs on an interim basis pending the final hearing and disposal of the suit :

(a) Restrain Defendants No. 3 to 13 and all persons claiming through or under them from in any manner obstructing, interfering with or creating hindrance to the running of the plaintiff's stone crusher unit situated at Gat No. 267, Mouje Mandedurg, Tal. Chandgad, Dist. Kolhapur;

(b) Restrain Defendants No. 3 to 13 from digging trenches, dumping material or creating any obstruction on the road leading from Mandedurg village to Gat No. 267, which serves as the access road to the plaintiff's crusher site.

In nutshell the case of the plaintiff is as under :

2. The plaintiff claims to be the owner of land bearing Gat No. 267, Mouje Mandedurg, admeasuring 1 H. 60 R., acquired by way of registered sale deed No. 1180/2018 dated 30/08/2018. A portion of 0 H. 10 R. out of the said land was converted to non-agricultural use for industrial purpose vide order dated 04/10/2008. The plaintiff states that he has obtained all

necessary statutory permissions for running a stone crusher unit, including a mining lease sanctioned by the Director, Geology and Mining, Maharashtra Government vide order dated 13/08/2024, and consent to operate from the Maharashtra Pollution Control Board (MPCB) dated 12/11/2020, valid up to 31/10/2026. He further states that the crusher has been in lawful operation for over four years, with heavy financial commitments including bank loan EMIs of Rs. 6,00,000/- per month, staff wages of Rs. 5,00,000/- per month, and electricity and other expenses of approximately Rs. 4,50,000/- per month.

3. The plaintiff's grievance is that Defendants Nos.3 to 13, motivated by political considerations and with the intent to avoid payment of Rs. 5,00,000/- allegedly due to the plaintiff for road construction work done at the behest of Gram Panchayat Mandedurg, conspired to shut down the crusher. On 26/12/2025, they illegally dug a trench across the public *panand* road leading to Gat No. 267, thereby blocking all vehicular access to the crusher site. On 04/01/2026, they visited the crusher premises with an alleged notice purportedly issued by Gram Panchayat Mandedurg directing immediate closure of the stone crusher, and threatened the workers employed there. As a consequence of these acts, all workers abandoned the site and the crusher has remained closed since 04/01/2026. When the plaintiff filled the first trench on 19/02/2026 and restored the road, the defendants dug a fresh trench at the village entrance on 20/02/2026, again blocking access. The plaintiff alleges a total loss of Rs.30,00,000/- on

account of this forced closure.

In brief the case of the defendants is as under :

4. The defendants deny all material allegations. They contend that no trenches were dug by them, that no workers were threatened, that the notice dated 04/01/2026 was lawfully issued in public interest, and that the plaintiff's mining and crushing operations have been causing grievous nuisance to the residents of Mandedurg village including structural damage to houses from illegal blasting, destruction of crops due to dust, hazard to livestock, and endangerment of schoolchildren due to heavy truck movement. They rely upon a Panchanama conducted by the Mandal Adhikari at the instance of the Tahsildar, which records certain adverse observations regarding the plaintiff's operations. They also raise several preliminary objections regarding maintainability of the suit.

5. Following points arise for my determination and my findings there on, with reasons, are as under -

Sr. No.	Points	Findings
1)	Does plaintiff prove that he has prima facie case in his favour ?	.... Yes
2)	Does plaintiff prove that he has balance of convenience in his favour ?	.... Yes

3)	Whether irreparable loss would cause to the plaintiff, if injunction is refused ?	.... Yes
4)	What order ?	.... As per final order

6. Plaintiff has filed documents alongwith list Exh.3 at Sr.Nos.1 to 10 and alongwith list Exh.45 at Sr.Nos.1 to 55 in support of his case. Defendant nos.3, 5 to 8, 10 and 13 have filed documents alongwith list Exh.32 at Sr.Nos.1 and 2. Defendant nos.4 to 13 have filed documents alongwith list Exh.43 at Sr.Nos.1 to 63 and alongwith list Exh.49 at Sr.Nos.1 to 40.

7. Ld. Advocate for the plaintiff relied on following case-law :-

[i] *Gram Panchayat, Kuhi and Anr. V/s. Vijaykumar Bhalotiya – (1986) Mh.L.J. 618.*

[ii] *Dalpat Kumar & Anr. V/s. Prahlad Singh & Ors. -- AIR 1993 SC 276 ;*

[iii] *Rameshwaram Minerals V/s. Ansh Constructions – LAWS (MPH)-2019-7-26 ;*

[iv] *H. A. Mukthiyar V/s. Gopal Rao & Ors. -- LAWS (KAR)-2016-2-56 ;*

[v] *Anil Garg V/s. Dhingra Construction Company – (2000) 4 ICC 387 ;*

[vi] *Inhabitants of Sheva Shirshu Doda V/s. UT of J & K and Ors. -- Hon'ble Jammu & Kashmir And Ladakh at Jammu, WP (C) No.639/2022, decided on 01/03/2023 ;*

[vii] *M/s. New Bharath Stone Crusher V/s. The Sub-Inspector of Police Kelakam, Kannur – Hon'ble Keralaaternakulam, WP (C) No.27622/2014, decided on 31/10/2014.*

8. Ld. Advocate for the defendant no.3 has relied on following case-law :-

[i] *Zilla Parishad, Ahmednagar & Ors. V/s. Sandip Madhav Khase – Hon'ble Bombay High Court Bench at Aurangabad, Civil Revision Application No.186 of 2024, decided on 28/07/2025.*

9. Ld. Advocate for the defendant nos.4 to 13 has relied on following case-law :-

[i] Nagar Parishad Katol V/s. Cotton Market Dharamshala Trust, Katol – AIR Online 2019 Bom. 834 ;

[ii] Sharad Jamnadharji Mor V/s. Arjun Yeshwant Dhanwatey and Anr. -- 2009 (6) AIR Bom R 347 ;

[iii] Ritesh Developers Pvt. Ltd. V/s. R. N. Talak and Developers – AIR Online 2021 Bom. 4758 ;

REASONS

As to point no.1 :-

10. The present application revolves around a dispute between the plaintiff, who is running a stone crushing business on his suit land at Gat No. 267, Mouje Mandedurg, and the villagers of Mandedurg represented by Defendants Nos.3 to 13. The grievance of the defendants, broadly stated, is that on account of continuous mining and blasting activity carried on by the plaintiff, there is excessive pollution in the area, cracks have developed in the houses of the villagers, heavy transportation of crushed material disturbs the residents and endangers the safety of schoolchildren, and agricultural crops in the surrounding fields are being damaged by dust. The question that falls for determination at this stage is whether, against this background, the plaintiff has made out a prima facie case that he is carrying on his stone crushing business lawfully, within the limits prescribed by the competent authorities who have granted him the necessary permissions and licenses.

11. The plaintiff contends that he is running the stone crushing business by obtaining all lawful permissions and licenses from the appropriate authorities. To substantiate this contention, he has placed on record a registered sale deed in his name in respect of Gat No. 267, a non-agricultural conversion order from the Tahsildar permitting industrial use of a portion of the said land, a mining agreement the Khan Patta Kararnama executed with the competent authority authorizing him to carry on mining

activity, an explosives license, a consent to operate issued by the Maharashtra Pollution Control Board valid until 31/10/2026, and royalty payment records evidencing periodic payments to the Government.

12. In this context, the learned counsel for the defendants raised two specific objections at the hearing. The first objection is that the mining agreement authorizes mining only in respect of the tenor land described therein, and that the plaintiff is allegedly carrying on mining operations over the entire suit land beyond the permitted area. The second objection is that the suit land is Class II land which cannot be lawfully purchased without prior governmental sanction, and therefore the plaintiff's very occupation of the suit land is impermissible in law.

13. Both these objections are weighty and go to the root of the matter. However, this Court is not conducting a mini-trial at this stage. These are disputed questions of fact and law which require detailed examination of the revenue record, the terms of the mining agreement and the applicable provisions of the Maharashtra Land Revenue Code all of which can only be done at the time of final hearing upon full evidence. On a prima facie reading of the record, it appears that the Tahsildar has granted permission for conversion of the suit land, and that the sale deed was executed after obtaining the requisite prior permission from the appropriate authority. In these circumstances, it cannot be said at this stage that the plaintiff's occupation and use of the suit land

is ex facie illegal.

14. It is equally important to note that even if the defendants' objections were accepted as correct at this stage,the appropriate course for the defendants would be to approach the revenue authority, the mining department or any other competent authority to challenge the conversion order through due process of law. Every person has an inherent right of access to his own land, and that right cannot be unlawfully obstructed by private individuals regardless of the nature of their grievance. The remedy for any legitimate challenge lies before the appropriate statutory or judicial forum, not in physical obstruction of the approach road to the property.

15. The defendants further contend that the plaintiff's blasting operations are excessive and beyond permissible limits, that they have caused cracks in the houses of the villagers, and that dust from the crushing operations has polluted the air and damaged the crops. On this aspect, the plaintiff has placed on record the MPCB consent to operate, the explosives license and the Khan Patta, all of which, on their face, authorize the plaintiff to carry on blasting and stone crushing operations subject to the conditions specified therein. These documents establish prima facie that the plaintiff holds a lawful right to blast for the purpose of quarrying stone and to crush it for commercial use.

16. If the plaintiff is infringing any of the conditions

specified in these licenses, there are specific statutory authorities constituted for that purpose the Maharashtra Pollution Control Board in respect of environmental violations, and the mining authority in respect of license condition breaches. The defendants have already filed complaints before these authorities. Those are the appropriate fora to determine whether any violation has in fact occurred. The villagers, however aggrieved, cannot arrogate to themselves the authority to determine on their own assessment that pollution limits have been exceeded or that blasting has been conducted illegally, and on that basis physically obstruct the plaintiff's access to his property.

17. On the question of evidence, it is relevant to note that there is not a single expert opinion or technical report on record placed by the defendants which establishes that the blasting conducted by the plaintiff exceeds the limits prescribed under his explosives license, or that the pollution generated by the crushing operations exceeds the limits permitted under the MPCB consent. The material placed by the defendants, by itself, at this stage does not constitute sufficiently reliable material to displace the prima facie entitlement of the plaintiff which flows from the subsisting statutory permissions on record. The defendants' case on this point rests on affidavits of villagers and photographs, which, without supporting expert evidence, do not at this stage establish prima facie that the plaintiff is operating in breach of his statutory permissions.

18. On the contrary, the plaintiff has filed bills and receipts evidencing regular water sprinkling on the access road for dust suppression. There is not a single photograph on record placed by the defendants which shows crops, houses or trees visibly coated with dust attributable to the plaintiff's operations. The plaintiff has also placed on record a Google Maps image which, prima facie indicates that the crusher site is located at a distance from the village and is not immediately contiguous to the residential area a circumstance which prima facie weakens the claim that dust and vibration from the crusher directly and severely affects the village homes.

19. The defendants place principal reliance on the Panchanama conducted by the Mandal Adhikari at the instance of the Tahsildar. Since this is an official document, it need to examine carefully.

20. On a reading of the Panchanama, it emerges that the Mandal Adhikari has recorded his observations in response to specific queries. However, the basis on which those observations have been recorded is not disclosed in the document. More significantly, the Mandal Adhikari is a revenue officer he is not a technical expert in mining engineering, structural engineering or environmental science. His observations regarding the existence of cracks and the effect of blasting are therefore the observations of an official without the relevant technical qualification, and not findings of a domain expert. The Panchanama itself recognizes this

limitation on the questions of damage to biogas units, damage to water bodies and wildlife impact, the Mandal Adhikari has specifically recorded that expert and departmental opinions are required. This acknowledgment within the document itself considerably reduces the weight that can be attached to the adverse observations contained therein at this stage.

21. On the specific question of structural damage the Panchanama records only that minor cracks were observed in some houses. There is no structural audit report and no technical opinion on record establishing that these cracks were caused by the plaintiff's blasting, or that the blasting was conducted in excess of permissible limits. Without such a nexus being established by competent expert evidence, the Panchanama observation regarding cracks does not, at this stage, constitute sufficiently reliable material to displace the plaintiff's prima facie entitlement.

22. A further circumstance deserves notice in this context. The plaintiff has placed on record photographs of a house constructed on the suit land itself a structure located at the very site of the crushing operations. That house does not appear in the photographs to have any cracks. If the blasting were of such intensity as to cause structural damage to houses several kilometers away, it would require explanation why the structure situated at the blasting site itself shows no signs of damage. This is a relevant circumstance, though not conclusive, which weighs prima facie in the plaintiff's favour on the question of whether the

blasting is excessive.

23. It is also relevant to note that the plaintiff has been carrying on the stone crushing business at this location since the year 2020 a period of more than five years. The complaints to the Tahsildar, the Collector, the MPCB and other authorities were all filed in the first week of January 2026. If the pollution, structural damage and nuisance were as severe and continuous as the defendants now assert, the absence of any grievance before any competent authority during the preceding five years prima facie raises a question.

24. The Panchanama, read in its entirety and in proper perspective, reflects genuine public concern which deserves attention by the competent regulatory authorities. However, it does not establish, even prima facie, that the plaintiff's operations are per se illegal or that they constitute such a manifest violation of law as would disentitle him to the interim protection of this Court at this stage.

25. The material on record thus discloses not only a subsisting legal right in favour of the plaintiff but also a prima facie interference with that right. It is significant to note that the Gram Panchayat Mandedurg itself issued a no-objection certificate in favour of the plaintiff, on the basis of which the other competent authorities the mining department and the MPCB granted their respective sanctions and permissions. The

defendants cannot be permitted to approbate and reprobate having once granted a no-objection, the Gram Panchayat cannot turn around and issue a closure notice against the very activity it had sanctioned, without following due process of law. None of the permissions so granted has been canceled or suspended by any competent authority as on date. Physical obstruction of the access road is not a remedy recognized in law. The first test is accordingly satisfied. It is also made clear that the observations herein are strictly confined to the interlocutory stage and shall not be construed as any expression of opinion on the merits of the suit or on the credibility of either party. Accordingly, I answer point no.1 in the affirmative.

As to point no.2 :-

26. The financial exposure of the plaintiff is documented and considerable. He carries recurring monthly obligations of approximately Rs. 15,50,000/- inclusive of bank loan repayments, staff wages for approximately 20 workmen, and operational costs all of which continue regardless of whether the crusher operates or not. The forced closure since 04/01/2026 has already extended to nearly three months. The MPCB consent is valid only until 31/10/2026. Every passing month of enforced closure is a month of lost production under a license whose operational life is finite and diminishing by the day.

27. Against this, the defendants urge that the public health and safety of the villagers outweighs the plaintiff's

commercial interest and that the balance of convenience favours refusal of the injunction. This Court has carefully considered this submission. The defendants' case on public health rests, as already discussed, on the Panchanama, villagers' affidavits, and photographs none of which contain expert findings establishing conclusive violation of any license condition. Several of the adverse observations in the Panchanama are themselves noted as requiring expert verification. In this state of the record, it cannot be held at this stage that the plaintiff's operations are so demonstrably and conclusively hazardous as to tilt the balance of convenience against a licensed operator holding subsisting permissions.

28. It must also be kept in mind that the balance of convenience analysis cannot ignore the interests of the 20 workmen employed at the crusher site, whose livelihoods have been disrupted since January 2026 through no fault of their own. They are not parties to this litigation but are persons whose interests are directly affected by the outcome of this application.

29. The Panchanama reflects genuine public concern which cannot be entirely disregarded merely because it lacks expert support at this stage, therefore, the balance of convenience does not, however, call for an absolute and unconditional injunction. A conditional order one that restores the plaintiff's access and right to operate while simultaneously addressing the safety concerns,best serves the interests of justice in the present

circumstances. The balance of convenience accordingly lies in favour of granting a conditional interim order. Accordingly, I answer point no.2 in the affirmative.

As to point no.3 :-

30. The injury to the plaintiff is not merely monetary and is therefore not adequately compensable in damages at a later stage. The plaintiff holds statutory permissions that are time-bound. The MPCB consent expires on 31/10/2026. If operations are not resumed, the plaintiff will not merely lose revenue he will lose the opportunity to operate under subsisting statutory permissions that are lawfully in place today. The loss of this operational window is a loss of a legal right, not merely a financial inconvenience. A mining lease extension is neither automatic nor guaranteed. This constitutes irreparable injury in the true legal sense an injury which, if not prevented now, cannot be adequately remedied at the conclusion of the trial. The third test is accordingly satisfied.

31. The defendants have raised preliminary objections including absence of pre-suit notice to the Gram Panchayat under the Maharashtra Gram Panchayats Act, non-impleadment of the Administrator of the Gram Panchayat, expiry of the Sarpanch's term in February 2026, non-joinder of the District Mining Officer as a necessary party, and non-compliance with Order 1 Rule 8 CPC on the ground that the subject matter involves a public interest.

32. At the interim stage, these objections are not fatal. Each of these objections raises questions that require scrutiny of pleadings, documents and legal argument and cannot be summarily resolved without prejudice to any party. The maintainability of a suit is a matter that must be tried as a preliminary issue or along with the merits. The existence of a serious triable dispute is sufficient to sustain interim protection at this stage. These objections are accordingly kept expressly open for adjudication. The defendant is at liberty to file fresh application about the same and the case law regarding the same will be considered while deciding the said application if filed.

33. The learned counsel for the defendants has placed reliance upon three decisions in support of the submission that the interim application deserves to be rejected. I have gone through the cases cited supra. In the case of ***Nagar Parishad Katol (cited supra)***, it was held that where granting of an injunction would cause suffering to the public at large, the balance of convenience would not favour the plaintiff, and that even where ownership is proved, the plaintiff would be entitled only to compensation and not to an injunction. In ***Nagar Parishad Katol (cited supra)***, the injunction was sought against a public body. The present case stands on an entirely different footing. Here, it is the plaintiff who holds a lawful license granted by the State and who is carrying on a business under statutory permissions. The principle that public interest prevails over private right cannot be inverted to protect an act of private obstruction and to defeat a licensed operator's right

to function. The said decision therefore has no application to the present facts.

34. In ***Sharad Mor (cited supra),*** it is hold that irretrievable injury or irrevocable loss must be proved by the party seeking injunction, and that the burden of proving such injury cannot be shifted to the defendant. This Court does not dispute the legal proposition. In the present case, as discussed above, The burden of proving irreparable injury has been discharged by the plaintiff on the material before the Court

35. In ***Ritesh Developers (cited supra),*** it is hold that a temporary injunction cannot be granted where it would amount to granting the final relief sought in the suit at the threshold itself. This principle is well established and this Court is respectful of it. However, it has no application to the present facts as the final relief sought in the suit includes a permanent injunction restraining the defendants from obstructing the crusher operations and the access road. The interim relief presently granted is a conditional restraint on physical obstruction of a public road pending trial it does not decide the suit, does not adjudicate the parties' rights finally. The reliance on Ritesh Developers is therefore misplaced.

36. The defendants have raised a specific contention regarding the no-objection certificate filed by the plaintiff. It is contended that though the plaintiff claims that Resolution No. 64

passed in the monthly meeting of Gram Panchayat Mandedurg authorized issuance of a no-objection certificate for the stone crushing business, on perusal of the original proceedings book which has been placed on record by the defendants no such resolution appears to have been passed on the relevant date.

37. This Court has considered this contention. However, certain circumstances appearing on the face of the proceedings book itself prima facie weaken the defendants' case on this point. First, when the learned advocate for the Gram Panchayat argued the present application, no specific denial of the resolution was made on behalf of the Gram Panchayat. Second, and more significantly, on perusal of the proceedings book, it appears that the relevant page contains no signature of any authorized member or officer, and that the entries in the proceedings book after the year 2020 are left blank. This circumstance itself calls for explanation. When the preceding entries in the same proceedings book are perused, it is seen that all earlier resolutions bear the signatures of the members. The absence of signatures on the relevant page and the blank entries thereafter are circumstances which raise a prima facie doubt about the reliability of the proceedings book as placed on record, and the document requires closer scrutiny at the time of trial.

38. As against this, the plaintiff has filed the no-objection certificate which is duly stamped and bears the signature of the competent authority. Prima facie, a duly stamped and signed

document carries its own evidentiary value. The question whether Resolution No. 64 was validly passed or not, and whether the no-objection certificate was lawfully issued, are matters which require examination of the original record and evidence at trial. At this prima facie stage, the objection raised by the defendants regarding the resolution cannot be conclusively decided and does not displace the prima facie weight of the no-objection certificate placed on record by the plaintiff.

39. The closure notice dated 04/01/2026 purports to direct the plaintiff to shut down his stone crusher unit. The power to suspend or cancel a mining lease vests with the competent authority under the Mines and Minerals (Development and Regulation) Act, 1957. The power to revoke or suspend a consent to operate vests with the Maharashtra Pollution Control Board under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981. No provision of the Maharashtra Gram Panchayats Act, 1958 has been brought to the notice of this Court which empowers a Gram Panchayat to direct closure of an industrial unit that holds licenses granted by the State Government and its statutory bodies. Regulatory control over the plaintiff's operations vests with the mining authority, the MPCB and other concerned departments not with the local body. The closure notice dated 04/01/2026 is therefore, prima facie, beyond the competence of Gram Panchayat Mandedurg, and cannot at this stage be treated as a lawful and binding direction upon the plaintiff.

40. In view of the foregoing discussion, all three tests for grant of interim injunction are satisfied. This Court is of the considered view that a conditional interim order serves the ends of justice. Accordingly, I answer point no.3 in the affirmative and proceed to pass the following order in answer to point no.4 :-

ORDER

1] Defendants No. 3 to 13, and all persons acting through them, under their instructions or in their aid, are hereby restrained from digging, creating, maintaining or in any manner forming any trench, blockade, barricade or obstruction on the road leading from Mandedurg village to Gat No. 267, Mouje Mandedurg, Tal. Chandgad, Dist. Kolhapur, which constitutes the access road to the plaintiff's stone crusher site. This restraint shall operate pending the final disposal of the suit.

2] Defendants No. 3 to 13, and all persons acting through them, are hereby temporarily restrained from obstructing, threatening, intimidating or in any manner interfering with the plaintiff, his workmen, agents and

authorized persons in peacefully accessing the suit property and operating the stone crusher, till disposal of the suit.

3] The above reliefs shall be operative and the plaintiff shall be entitled to resume operations **only upon compliance with the following conditions:**

(a) The plaintiff shall strictly comply with all terms and conditions of the mining lease, the MPCB consent to operate and the explosives license. Blasting operations shall be conducted strictly within the parameters specified in the existing license.

(b) The plaintiff shall undertake effective dust suppression measures at the crusher site and on the access road by regular water sprinkling. The plaintiff shall file an undertaking to this effect before this Court within fifteen days from the date of this order.

(c) Heavy vehicles engaged in transportation of stone or gravel shall ply on the access road only between **7:00 AM and 6:00 PM** so as to address the safety of schoolchildren and residents.

4] It is clarified that this interim order shall not preclude the defendants or any competent regulatory authority, including the MPCB, the mining department and the Tahsildar, from taking action in accordance with law.

5] It is expressly made clear that nothing in this order constitutes any final adjudication on the merits of the suit, the legality of the plaintiff's permissions, the validity of the closure notice, or the lawfulness of the defendants' actions. All questions of fact and law remain entirely open for determination at the final hearing. The observations herein are strictly confined to the interlocutory stage and shall not be construed as any expression of opinion on the merits of the suit or on the credibility of either party.

DISTRICT COURTS MAHARASHTRA

Digitally signed by NARENDRA
Date: 2026.03.27 17:27:22 +0530

Place : Gadhinglaj.
Date : 27/03/2026.

(N. S. Puri)
Civil Judge Senior Division,
Gadhinglaj