

	<p style="text-align: center;">Kumar Atharv Kallappa Patil Vs. District Mining Officer, Kolhapur & Ors.</p>
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1. The plaintiff has filed this suit for declaration and perpetual injunction against the defendants i.e. The defendant No 1 District Mining officer, Kolhapur and the Collector, Kolhapur and def. 3 Prakash Bhimrao Patil challenging order passed by the def. 1 dated 13-02-2026 directing the plaintiff to pay royalty and fine. This is an application for temporary injunction to restrain defendants from taking any action in pursuant of that notice dated 13-02-2026, till final adjudication of this suit.

2. The facts in dispute can be summarized as under :-

It is contention of the plaintiff that he has undertaken work of mining by excavation the land from village Rajgoli, Taluka Chandgad, Dist Kolhapur in Gat No. 757 ad measuring 1H27R as per reg. agreement between the def. 1 and the plaintiff. He also sub-leased the work to def. 3. He did work as per agreement and not exceed the area allotted to him. Nevertheless, he received notice from the office of Def. 1 District Mining officer, Kolhapur for payment of royalty and penalty for exceeding the area allotted to him. According to the plaintiff alleged excavation is done by the

Dhondiba Nigappa Patil and this fact is within the knowledge of the defendant No. 1. Nevertheless, defendants with intention to harass the plaintiff, wrongfully issued recovery notice to the plaintiff. According to the plaintiff, he has not exceeded the area allotted to him therefore, he is not liable to pay the fees as well as fine. Therefore, the plaintiff requested to restrain the def. 1 taking any action in pursuant of that notice dated 13-02-2026, till final adjudication of this suit.

3. After issuing notice to the defendant's returnable date was fixed on 10-03-2026. However, all defendants remain absent. The plaintiff moved an application Exh. 8 with request to pass order of "status-quo" in present suit, with direction to the defendant, restraining them from taking further auction, in pursuant to notice dated 13-02-2026. That application was rejected by passing detain order on this application i.e. Exh. 5 on same day i.e. 10-03-2026. On request of Ld. advocate for the plaintiff, this suit was kept today for appearance of defendants and for hearing of this application i.e. Exh. 5.

4. In spite of repeated called out the defendants did not appear even in afternoon session. Therefore, detail order is passed below Exh. 1 and heard Ld. advocate for the plaintiff for deciding Exh. 5 today itself.

5. Heard Ld. Advocate for the plaintiff and perused all documents relied upon by the plaintiff. After considering the pleadings and submissions of the plaintiff I have formulated the following points for my determination and their findings are recorded along with reasons as follows :-

Sr. No.	POINTS	FINDINGS
1)	Does the plaintiff make out <i>prima facie</i> case in his favor ?	Yes
2)	Whether the balance of convenience lie in favor of the plaintiff ?	No
3)	Does the plaintiff prove that he would suffer an irreparable loss which cannot be compensated in money, if a temporary injunction is refused ?	No
4)	What order ?	Application is rejected.

-: REASONING :-

AS TO POINT NO. 1 TO 3 :-

6. The plaintiff by relying upon lease agreement and notice issued by the defendant No 1 submitted that he has undertaken work of mining by excavation the land from village Rajgoli, Taluka Chandgad, Dist Kolhapur in Gat No. 757 ad measuring 1H27R as per reg. agreement between

the def. 1 and the plaintiff. He also sub-leased the work to def. 3. He did work as per agreement and not exceed the area allotted to him. Nevertheless, he received notice from the office of Def. 1 District Mining officer, Kolhapur for payment of royalty and penalty for exceeding the area allotted to him. According to the plaintiff alleged excavation is done by the Dhondiba Nigappa Patil and this fact is within the knowledge of the defendant No. 1. Nevertheless, defendants with intention to harass the plaintiff, wrongfully issued recovery notice to the plaintiff. According to the plaintiff, he has not exceeded the area allotted to him therefore, he is not liable to pay the fees as well as fine.

7. The plaintiff has made out *prima-facie* case in his favor. However, failed to establishes that he will suffer an irreparable loss which cannot be compensate in money and that balance of convenience lies in his favor. According to Ld advocate execution of the impugned order is to record recoverable revenue over 7/12 extract of the land of the plaintiff. Then in that case he will not be liable to pay royalty or fine immediately. The plaintiff must ask the def. 1 for personal hearing to prove his case. Even in that case def. 1 refused then the plaintiff can approach this Court challenging the order of def. 1 of refusal of his submission.

8. As far as payment of royalty of Rs. 54,01,200/- is concern as reflecting in notice dated 13-02-2026. The Ld. advocate for the plaintiff, submitted that the plaintiff is ready to pay that royalty which is due and payable for the excavation he has carried out. I here submit that for payment of due royalty courts permission is not requires. The plaintiff can immediately pay that royalty amount as per Rule on the office of def. 1. Therefore, I record in my finding on point No. 1 in the affirmative and point No. 2 and 3 in the negative Thus, I pass the following order.

AS TO POINT NO. 4 :-

9. Considering the finding of point No. 1 to 3, I pass the following order.

:- ORDER :-

- (1) The application (Exh. 5) is rejected.
- (2) Cost in cause.
- (3) Suit is adjourned for appearance of defendants.

Place :- Gadhinglaj
Date :- 13-03-2026.

(S. C. Havelikar)
Jt. CJSD, Gadhinglaj
District :- Kolhapur.