



R.C.S.No. 164/2025

**Rajashri Mangesh Revade & Anr. Vs. Bhairu Tuka  
Nikam**

**CNR - MHKO130020902025**

**ORDER PASSED BELOW EXH.05**

**(Dt. 11/06/2026)**

1. By way of instant application vide Order 39 Rule 1 & 2 read with section 151 of the Code of Civil Procedure Plaintiff/applicant has prayed for the relief of temporary injunction to restrain the Defendants or their agents from interfering with the joint possession of Plaintiffs over the suit property and further from ousting the Plaintiffs from the suit property till the disposal of the suit.

2. Suit property is 0.03 R agricultural land in Gat No. 1129 admeasuring 0.88 R and Pot Kharab 0.03 R i.e. totally admeasuring 0.91 R jointly purchased by Plaintiffs situated near the Gavthan of village Vhannur, Tal. Kagal, Dist. Kolhapur and bounded as follows.  
Towards East – Land in Gat No. 1128 and Gat No. 1136.  
Towards West – Land in Gat No. 1130 and Gat No. 1136.  
Towards South – Land in Gat No. 1130 and Gat No. 1136.  
Towards North – Vhannur – Vadgoan Raod. (here-in-after referred as suit property for the sake of brevity.)

3. It is submitted that Plaintiff has filed suit for declaration and Perpetual injunction. Suit property was originally owned by Kunchakka Balgonda Kanire. She did not have any direct heirs and therefore after the death of Kunchakka, Chandrakant and Tatyaso Surgonda Patil became the owners and possessors of suit property. Chandrakant and Tatyaso are residing out of the village and therefore they intended to sell the suit property.

4. It is submitted that therefore Defendant No. 1 Bhairu Nikam purchased 0.20 R land in Gat No. 1129 vide registered Sale Deed bearing No. 1370/2016. Defendant No. 2 Ganapati Mahadeo Mulik purchased 0.06 R land vide registered Sale Deed No. 2019/16, one Kamruddin Tajuddin Mujawar from Kolhapur purchased 0.38 R land vide registered Sale Deed No. 683/2018. At the same time Defendant No. 3 Renuka Vikas Magdum purchased 0.06 R land vide registered Sale Deed No. 684/2018.

5. It is submitted that thereafter husband of Plaintiff No. 1 and father of Plaintiff No. 2 Mangesh Eknath Revde purchased 0.18 R land vide registered Sale Deed No. 1078/2018 on 04/06/2018. In this way the owners Chandrakant and Tatyaso sold agricultural land in Gat No. 1129 to the above purchasers. It is submitted that at the time of execution of Sale Deeds the boundaries of property which is sold were wrongly described and the Sale Deeds were executed without taking permission of prior owners. It is submitted that all the Sale Deeds are executed without measurement of the property to be sold, the roads are wrongly described and therefore the boundaries are wrongly described.

6. It is submitted that out of 0.38 R land purchased by Kamruddin 0.24 R land was sold to Defendant No. 3 to 6 and 16, 17 by mentioning incorrect boundaries, preparing incorrect map vide Registered Sale Deed bearing No. 173/2025 on 17/01/2025 and the remaining 14 R land was sold vide registered Sale Deed No. 172/2025 by mentioning incorrect and wrong map, wrong road to Defendant No. 7, 8 and 11. In this Sale Deed a false map is prepared by mentioning that 0.08 R land is reserved for road for the purchasers which extends towards North side after Vadgoan-Vhannur

Road.

7. Out of the above land in Gat No. 1129 Mangesh Revade sold 0.112 R land to the original owner Tatyaso. Thereafter Tatyaso Patil sold 0.06 R land vide registered Sale Deed No. 2099/2018 to Defendant No. 9 and 10 and vide registered Sale Deed No. 2056/2020 admeasuring 0.06 R land to Defendant No. 11 and 12. Thereafter Mangesh Revde sold the remaining 0.06 R land vide registered Sale Deed No. 907/2021 jointly to Plaintiff and Defendant No. 13 and 14. Accordingly Plaintiffs are in possession over the suit property and their names are mutated over the 7/12 extract. It is submitted that the Defendants who are the purchasers of land in Gat No. 1129 have purchased property by mentioning incorrect boundaries and preparing wrong maps. Therefore the possession of Plaintiffs over 0.03 R land purchased by them is in danger of encroachment at the hands of the Defendants. For these reasons Plaintiff has filed the suit for fixation of boundaries. Plaintiffs are cultivating crops such as Soyabin, Groundnut in the suit property. On the basis of incorrect boundaries and wrong map Defendants are on the verge of ousting the Plaintiff and disturbing the peaceful possession of Plaintiff over the suit property. Some Defendants are also on the verge of carrying out construction over the suit property therefore there are every chances that the possession of Plaintiff over the suit property being interfered with and obstructed. Hence the Plaintiff was constrained to file the present suit along with application for temporary injunction.

8. Defendant No. 3 to 8 and 17 filed their Written Statement and Say at Exh. 14. It is submitted that Kamruddin Tajuddin Mujawar has purchased 0.38 R land in same Gat No.

bearing No. 1129 from Chandrakant Surgonda Patil vide registered Sale Deed No. 683/2018 dated 12/04/2018 for consideration of Rs. 15,00,000/- wherein Tatyaso Surgonda Patil and Mangesh Eknath Revade given consent. The boundaries of that suit property bearing No. 1129 and out of it 0.38 R land are as follows.

Towards East – property of Bhairu Nikam in the same Gat No and Gat No. 1136,

Towards West – Property in Gat No. 1130,

Towards South – Property in Gat No. 1136,

Towards North – Remaining property in the same Gat No.

Accordingly name of Kamruddin was mutated over 7/12 extract of Gat No. 1129. It is submitted that the husband of Plaintiff No. 1 and father of Plaintiff No. 2 namely Mangesh Eknath Revde had never disputed the ownership of Kamruddin acquired over property in Gat 1129 vide registered Sale Deed No. 683/2018. The property purchased by Kamruddin is situated towards South side of Gat No. 1129. On the contrary towards the North side Gat No. 1129 Vadgoan-Vhannur road is situated.

9. It is submitted that Defendant No. 7, 8 and 18 had purchased 0.14 R land out of 0.38 R land in Gat No. 1129 from Kamruddin Tajuddin Mujawar vide registered Sale Deed No. 172/2025 on 17/01/2025 for consideration of Rs. 6,13,000/- and since then Defendant No. 7, 8 and 18 are in possession of this property as owner.

10. It is submitted that remaining 24 R land in Gat No. 1129 of Kamruddin is purchased by Defendant No. 3 to 6 and 16 and 17 vide registered Sale Deed No. 173/2025 for consideration of Rs. 22,50,000/- and since then vide mutation entry bearing No.4855

their names are mutated over the 7/12 extract. It is submitted that 0.08 R land of Defendant No. 7, 8 and 18 and 3 to 6, 16 and 17 has been included in the internal road running in Gat No. 1129. It is submitted that Kamruddin Tajuddin Mujawar has also undertaken measurement of Gat No. 1129 vide MR No. 6143 on 06/07/2022 and on 24/11/2022 by Deputy Superintendent, Kagal with measurement map wherein area of Gat No. 1129 is marked as ABCDEFGH in English alphabets and the boundary of Gat No. 1129 has been fixed. It is submitted that Plaintiff has not intentionally produced Sale Deed bearing No. 1078/2018 executed by Mangesh Eknath Revade.

11. Considering the averments in the plaint, written statement and say following points arise for my determination to which I record my findings with reasons.

	<b><u>POINTS</u></b>		<b><u>FINDINGS</u></b>
1.	Whether prima facie case lies in favour of plaintiff?	:-	In the affirmative
2.	Whether balance of convenience lies in favour of plaintiff ?	:-	Yes
3.	Whether plaintiff would suffer irreparable loss if injunction is refused ?	:-	Yes
4.	What order?	:-	As per final order

**:- REASONS :-**

12. Plaintiff has filed the suit on 09/12/2024 for declaration that the Sale Deed dated 27/11/2024 executed by Defendant No. 1 in favour of Defendant No. 2 is illegal and not binding on them and further by way of perpetual injunction to restrain the Defendant No.

2 from interfering with their possession over the suit property and oust them from the suit property.

13. Undisputedly Defendant No. 1 has executed Sale Deed bearing No. 3150/2024 in favour of Defendant No. 2 on 27/11/2024. The certified copy of said Sale Deed is on record. On perusal of this Sale Deed it reveals that Defendant No. 1 has alienated the suit properties in favour of Defendant No. 2. The contention of Defendant No. 1 is that she being the coparcener and co-sharer has 1/2 share in the suit properties and therefore she has every right in the suit properties and therefore she can alienate the suit properties. The contention of Defendant No. 2 is that since Defendant No. 1 is the owner and possessor of 1/2 share in the suit properties as per the entries in the revenue records and more particularly the 7/12 extract the Defendant No. 1 has every right to execute the Sale Deed and therefore she is the bonafide purchaser of the suit properties and her possession is valid and legal.

14. It is not in dispute that the Mutation Entry bearing No. 4007 whereby only the names of Plaintiffs were mutated as heirs of Subhash Nilappa patil has been challenged before the revenue authorities. The Revenue Authorities namely the Tahsildar and Sub-Divisional Officer Radhanagari, Kagal has directed to mutate the name of Plaintiff over 1/2 share in the suit properties. On perusal of the Mutation Entry bearing No. 334 it reveals that the name of Malubai, Subhash and Defendant No. 1 is mutated as heirs of Nilappa Patil. The 7/12 extract of the suit properties also find mention of the name of Defendant No. 1 over 1/2 share in the suit properties.

15. Plaintiff has not denied their relationship with Defendant

No. 1. The genealogy with respect to Plaintiff and Defendant No. 1 is admitted. It is the contention of Plaintiff that since 1987 their ancestor namely Subhash is cultivating and is in possession of the suit properties. It is their contention that since Defendant No. 1 is neither in possession of suit property nor is cultivating the suit property, she is not entitled to any right or share in the suit property. Certainly the Plaintiff has come out with the case of acquiring ownership over the suit property on the basis of continuous possession i.e. on the basis of adverse possession. It is to be mentioned here that if one of the co-heir has set up the the plea of adverse possession against another co-heir, then the possession of one co-heir is considered in law as possession of the co-heirs.

16. The Plaintiff has also filed the document vide list at Exh. 29 on record with respect to receipts of Ch. Shahu Sahakari Sakhar Karkhana Ltd., Kagal which mentions the name of Plaintiffs has possessors of suit property. These receipts depict that the Plaintiff had cultivated sugar cane in the suit properties but the fact remains that Defendant No. 1 is also coparcener and she has right in the suit properties because they are ancestral in nature.

17. More so it is pertinent to note that Plaintiff had also filed RCS bearing No. 178/2024 against the present Defendant No. 1 with respect to the same suit properties wherein Plaintiff has prayed for the relief of declaration of ownership on the basis of adverse possession and for the relief of perpetual injunction to restrain Defendant No. 1 from alienating or creating third party interest in the suit properties. It reveals that the suit bearing No. 178/2024 was instituted on 28/08/2024 and it is instituted prior in point of time of the present suit. That suit is pending for arguments on application for

temporary injunction.

18. Plaintiff is relying on the judgment of Hon'ble Supreme Court in Ramdas Vs. Sitabai and Ors [AIR 2009 Supreme Court page 2785] wherein the Hon'ble Supreme Court has held that the possessor of undivided share of co-sharer can not have better title than what vendor had. It is held that the undivided share of co-sharer may be subject matter of Sale Deed but possession can not be handed over to the vendee unless the property is partitioned by metes and bounds amicably or by way of decree of the Court.

19. Certainly the Defendant No. 1 has come out with the case that she being one of the heirs of original owner Nilappa Balgonda Patil she also has 1/2 share in the suit properties and therefore according to order passed by Revenue Authorities her name was mutated over 1/2 share in the suit property. Therefore the theory of partition by metes and bounds i.e. partition by fixing boundaries is not put up by either of the parties.

20. In such a case prima facie it can be concluded that partition of suit property is not effected by metes and bounds. It is settled principle of law that as per the dictum of Hon'ble supreme Court the purchaser of co-parceners undivided interest in joint family property is not entitled to possession of what he has purchased. In such a case he has right to sue for general right of partition and only after partition he is entitled to possession of the share of what he has purchased. In such circumstances Plaintiff has prima facie made out arguable case and he is entitled for the relief of temporary injunction as prayed. If the Defendant No. 2 is not restrained from obstructing the possession of Plaintiff and ousts the Plaintiff from suit property it

will cause much hardship leading to irreparable loss and multiplicity of the proceedings to the Plaintiff. Accordingly Point No. 1, 2 and 3 are answered in favour of Plaintiff. In answer to Point No. 4 I pass following order.

**ORDER**

1. The application (Exh. 5) is allowed.
2. Defendant No. 2 is restrained by temporary injunction from interfering with the possession of Plaintiff and ousting them from the suit property till the final disposal of the suit.
3. Cost in main cause.

Kagal.  
Date:- 11/06/2026

**(A.B.Madake)**  
Civil Judge Junior Division,Kagal.