



R.C.S.No. 174/2025

**Ramjan Dadu Shahanediwan Vs. Imran Moulali
Shahanediwan**

CNR - MHKO130022122025

ORDER PASSED BELOW EXH.05

(Dt. 10/03/2026)

1. The Plaintiff has filed the present application vide Order 39 Rule 1 & 2 of the Code of Civil Procedure for temporary injunction. By way of instant application Plaintiff has made following prayers.

Firstly to restrazin Defendant No. 1 to 4A and 4B from obstructing the 10 feet North-South road for approaching Gram Panchayat Milkat No. 214 by way of construction or by any other mode.

Secondly to restrain Defendant No. 5 from sanctioning any Government scheme to Defendant No. 1 to 4A and 4B in Gram Panchayat Milkat No. 215 on the basis of illegal tax receipts in favour of Defendants.

Thirdly to restrain Defendant No. 1 to 4 by way of temporary injunction from carrying out construction in suit property bearing Gram Panchayat Milkat No. 215.

2. Suit property is Gram Panchayat Milkat No. 214(old Gram Panchayat Milkat No. 124/1/2/2) and Gram Panchayat Milkat No. 215(old Gram Panchayat Milkat No. 124/1/2/1) situated at village Bachani, Tal. Kagal and jointly bounded as follows.

Towards East – Property of Dhondiram Babalal Shahanediwan.

Towards West – Property of Dagadu Bhau Khamkar.

Towards South – House Property of Mahadeo Appaji Patil, road to

approach suit property.

Towards North – Property of Khamkar.

(here-in-after the above referred property shall be referred as suit property for the sake of brevity).

3. It is submitted that in the year 1993 the father of Plaintiff has allotted Gram Panchayat Milkat No. 124/1/2/2 i.e. Gram Panchayat Milkat No. 214 to the Plaintiff. Later on the father of Plaintiff also allotted Gram Panchayat Milkat No. 215 to the Plaintiff. During the lifetime of the father of Plaintiff and Defendants Defendant No. 2, 3, deceased Defendant No. 4 and Razak had constructed separate house for residence. Therefore Defendant have no concern with suit property bearing Gram Panchayat Milkat No. 214 and 215. It is submitted that Plaintiff has constructed a new house in Gram Panchayat Milkat No. 214 by demolishing the old house which was in dilapidated condition and at that time he had left 10 feet North-South road to approach the house. It is submitted that Plaintiff was also in possession of Gram Panchayat Milkat No. 215. But Defendant No. 1 to 3 and 4A, 4B in collusion with Defendant No. 5 mutated their name at the Gram Panchayat records over Gram Panchayat Milkat No. 215 and 208 which is illegal. It is submitted that the Defendant No. 1 to 4A and 4B have no right in Gram Panchayat Milkat No. 215 because partition is not effected and therefore the construction which is carried on by them is illegal. It is submitted that Defendants are also obstructing the road which is left by the Plaintiff to approach his house bearing Gram Panchayat Milkat No. 214. Hence the Plaintiff was constrained to file present suit and application.

4. Defendant No. 1 to 3 filed their Written Statement at

Exh. 15 and opposed the averments in the plaint. It is submitted that Dadu Mahammad Shahanediwan, the father of Plaintiff and Defendant No. 1 to 3 owned Gram Panchayat Milkat No. 214, 215, 208 and 216 and some open space at village Bachani, Tal. Kagal. It is submitted that after death of Dadu Mahammad Shahanediwan the suit property bearing Gram Panchayat Milkat No. 214 was exclusively possessed by Plaintiff and therefore the Plaintiff has constructed a ground floor and first floor out of Government Gharkul Scheme in Gram Panchayat Milkat No. 214.

5. It is submitted that the Gram Panchayat Milkat No. 216 is exclusively allotted to Defendant No. 2 and Defendant No. 2 is in possession thereof. It is submitted that the open space in Gram Panchayat Milkat No. 216 has been given Gram Panchayat Milkat No. 216/1 and it is in the name of Defendant No. 1. Defendant No. 1 is the son of Defendant No. 2. It is submitted that Defendant No. 1 and 2 by demolishing the old house are constructing new house in Gram Panchayat Milkat No. 216/1 which is neither objected by the Plaintiff nor other Defendants.

6. It is submitted that the Defendant No. 1 has left 5 feet wide road from Gram Panchayat Milkat No. 216/1 to approach Gram Panchayat Milkat No. 214 owned by Plaintiff and there is no obstruction to Plaintiff by any of the Defendants.

7. It is submitted that the remaining properties of Dadu Mahammad Shahanediwan at village Bachani namely Gram Panchayat Milkat No. 215 and 208 are in the name of Plaintiff and Defendant No. 2, 3, deceased Makbul and Razak. Out of it Razak and the heirs of deceased Makbul are residing in Gram Panchayat Milkat

No. 208 and Defendant No. 3 is residing in Gram Panchayat Milkat No. 215. It is submitted that this factual position has been suppressed by the Plaintiff. It is submitted that non of the Defendants are obstructing right of the Plaintiff. Plaintiff has no right in Gram Panchayat Milkat No. 215. Hence the application being devoid of merits be rejected.

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

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

:- REASONS :-

9. Suit of Plaintiff is for declaration and perpetual injunction. By way of instant suit Plaintiff has prayed to declare that he is the owner of suit property. Plaintiff has also prayed to declare that the Gram Panchayat Entry in the Gram Panchayat record with respect to Gram Panchayat Milkat No. 215 made by Defendant No. 5 is illegal. Plaintiff has also prayed for the relief of perpetual injunction to restrain the Defendants from interfering with his possession over the suit property and from carrying out construction

in Gram Panchayat Milkat No. 215. Plaintiff has also prayed to restrain Defendants from obstructing his right of way to approach Gram Panchayat Milkat No. 214.

10. In paragraph No. 1 of the plaint Plaintiff has described the suit property and he has given boundaries of suit property jointly. Suit properties are Gram Panchayat Milkat No. 214 and Gram Panchayat Milkat No. 215. Plaintiff has not mentioned the area of the suit properties. Plaintiff has come out with the case that during the lifetime of their father namely Dadu Mahmmad Shahanediwan suit property was allotted to him and his other brothers. Defendant No. 1 to 4 are having separate residential property in village Bachani and they are residing therein since their father.

11. There is no dispute that Gram Panchayat Milkat No. 214 is allotted to Plaintiff and Plaintiff is in possession of Gram Panchayat Milkat No. 214. Dispute is with respect to 10 feet road allegedly in the name of Plaintiff to approach his house. Another dispute is with respect to Gram Panchayat Milkat No. 215. The Plaintiff has contended that it is allotted to him by his father but as per Defendants, Defendant No. 3 is residing in Gram Panchayat Milkat No. 215 by constructing a house.

12. Plaintiff has filed the documents vide list at Exh. 3 on record. On perusal of the certified copy of Form No. 8 i.e. the Tax receipt for Gram Panchayat Milkat No. 214 it reveals that Plaintiff Ramjan Dadu Shahanediwan he is paying the taxes.

13. On perusal of the form No. 8 i.e. Tax receipt of Gram Panchayat Milkat No. 215 it reveals that it is in the name of Makbul

Dadu Shahanediwan(deceased Defendant No. 4), Samsheer Dadu Shahanediwan(Defendnat No. 3), Razak Dadu Shahanediwan, Maulali Dadu Shahanediwan and Ramjan Dadu Shahanediwan. This is the Tax receipt for Gram Panchayat Milkat No. 215 for the year 2023-2024 to 2026-2027.

14. On the one hand Plaintiff has come out with the case that the suit property bearing Gram Panchayat Milkat No. 214 and 215 has been allotted to him by his father and Defendants are residing at village Bachani by constructing their separate house during lifetime of their father and on the other hand Plaintiff has submitted that the Gram Panchayat entries with respect to Gram Panchayat Milkat No. 215 wherein the names of Defendant No. 1 to 3 are added is illegal.

15. Admittedly the Defendants are not claiming any right in suit property bearing Gram Panchayat Milkat No. 214 but the Plaintiff while describing the suit property has given joint Gram Panchayat Milkat No. 214 and Gram Panchayat Milkat No. 215. Plaintiff has not described the area of Gram Panchayat Milkat No. 214 and Gram Panchayat Milkat No. 215 separately with boundaries.

16. The tax receipts filed by Defendant No. 1 to 3 vide list at Exh. 19 reveal that the properties of original owner Dadu Mahammad Shahanediwan are separately in the name of his sons. The tax receipt of Gram Panchayat Milkat No. 216 is in the name of Maulali Dadu Shahanediwan i.e. Defendant No. 2. The tax receipt of Gram Panchayat Milkat No. 215 is still in the name of Dadu Mahammad Shahanediwan. The Defendant has also filed the photographs of the suit property on record at Sr. No. 24 and 25 vide list at Exh. 19 which

clearly shows that the road is existing to approach the Plaintiff to his Gram Panchayat Milkat No. 214 and construction is in progress in another suit property.

17. Thus prima facie it reveals that Gram Panchayat Milkat No. 214 is allotted to the Plaintiff, Gram Panchayat Milkat No. 216 is in possession of Imran Maulali Shahanediwan i.e. Defendant No. 1 Gram Panchayat Milkat No. 216 is in possession of Defendant No. 2 and Gram Panchayat Milkat No. 208 is jointly in possession of Plaintiff and Defendants. In such circumstances Defendant No. 3 prima facie has every right to carry out construction in Gram Panchayat Milkat No. 215. In such circumstances Defendant No. 5 can not be restrained from sanctioning any scheme on the basis of Mutation Entry in the Gram Panchayat Milkat Records with respect to Gram Panchayat Milkat No. 215.

18. So far as the road which is existing to approach the Gram Panchayat Milkat No. 214 is concerned to that extent the Defendants can be restrained from obstructing right of way of Plaintiff. Thus Plaintiff has made out prima facie case only with respect to his right of way to approach Gram Panchayat Milkat No. 214 because if the Defendants are not restrained from obstructing the right of way to approach Gram Panchayat Milkat No. 214 then it will cause more hardship to Plaintiff and lead to irreparable loss to him. Accordingly I answer point No. 1, 2 and 3 partly in the favour of Plaintiff. Hence I pass following order.

ORDER

1. The application (Exh. 5) is partly allowed.
2. Defendants or their agents are restrained by temporary injunction from obstructing the right of Plaintiff to approach his house till the final disposal of suit.
3. Cost in main cause.

Kagal.
Date:- 10/03/2026

(A.B.Madke)
Civil Judge Junior Division,Kagal.