


MHKO140000402025 	<p style="text-align: center;"><u>ORDER BELOW EXH.5 IN R.C.S. NO.14/2025</u></p> <p style="text-align: center;"><u>Shankar Irappa Nadgauda</u></p> <p style="text-align: center;"><u>Vs.</u></p> <p style="text-align: center;"><u>Nandkumar Mahadev Nadgauda</u></p>
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Date - 05/05/2026

This is an application filed by plaintiff under Order 39 Rule 1 & 2 of the Code of Civil Procedure for interim relief.

02. Case of the plaintiff :

The family of the plaintiff and the defendant and the defendant in the Gram Panchayat Property No.68, 149, 148, 67, 67/B, 68 and Gram Panchayat Property No.150 within the limits of the village of Nagve, Tal. Chandgad, Dist. Kolhapur, is a public clan house of the Nadgouda family, which has been traditionally inherited by the family of the plaintiff and the defendant.

East side:- Grampanchayat property owned by Mr. Laxman Appaji Nadgouda House no.68.

West side:- House of Mr. Gopal Mahadev Nadgouda, Grampanchayat property No.149.

South side:- Shri. Nandkumar Mahadev Nadgouda i.e. a house of the defendant's family, its Grampanchayat property No.148 and to its east, a 5 feet wide road used to go to and from the family house of the claimed property and beyond it, the house property of Ramchandra Irappa Nadgouda, Grampanchayat property No.67/B.

North side:- On the west side, the defendant's Grampanchayat property No.150. On the east, Shivaji Irappa Nadgouda's Grampanchayat property No.67 and beyond that, the abandoned site of the old house of Retired Appaji Nadgouda's Grampanchayat property No.68. The family of the plaintiff and the defendant used to live together as a joint family, since then the said claim property has been kept as a clan house temple for all, in the said claim property, Shri. Dev Jotiba and other gods have been installed and every year everyone, that is, all the members of the devotees, come together and perform divine services. Also, if there is any auspicious work for anyone among the devotees, it is done in this clan house. Overall, the families of the plaintiff and the defendant do not have any other property other than the temple claimed for religious services. The defendant's family has a one room property on the south-north side of the said claim property. The defendant has taken out both the said rooms in the first week of January 25 with the intention of renovating them. But, while the said defendant is constructing both the properties, they are preparing to take the family house of the claim property into their property. For this, the defendant has dug pits on the south-north side of the said property with the help of Dandgaon and erected iron pillars. As soon as the plaintiff and his relatives came to know about this matter, they all requested the defendant from time to time and asked him not to do any construction on the claimed property. But, the defendant did not respond to him, so the plaintiff and all the members of the relatives filed a complaint with the village Grampanchayat dated 04/01/2025. The said defendant is the police Patil of the village. Therefore, he is very proud of it, and his behavior is also shameless. Therefore, he is preparing to carry out the planned

construction with more vigor. So why do the defendants complete the planned construction, the religious beliefs of the plaintiff and the defendant will be threatened, and their emotional feelings will be hurt. Also, the said defendant is going to establish his ownership right in the public clan house. The defendant has no sole right over the clan house of the said claim property. The said claim property is the public ownership property of the Nadgouda family. For all these reasons, it is necessary to stop the wrongdoing of the defendants immediately and permanently. Otherwise, the plaintiff Nangouda family will suffer all kinds of irreparable religious and mental losses. For this, the plaintiff has been forced to file the said claim against the defendant. It will take a long time to proceed with the said claim on merits. In the meantime, there is a fear that the planned illegal construction will be completed, if he does so, the plaintiff and his family will suffer irreparable losses. Therefore, the said application has to be filed for temporary injunction.

03. Case of the defendant :-

Defendant filed their reply to the present application below exhibit 23 and denied all the averments of the plaintiff. The plaintiffs have no right or locus-standi to file the present suit against the defendant. The plaintiffs have no any rights, vested in the alleged suit property as alleged. So the plaintiffs are not entitled to any reliefs as prayed for by them. Hence, the present suit is not maintainable in law. The description of the suit property is wrongly mentioned. The suit property as mentioned by the plaintiff is not in existence at all. There is no any Deity house in the suit property as alleged by the plaintiffs. The hand-sketch map annexed with the plaint is false,

imaginary and it has no any legal sanctity. The parties as mentioned in the alleged Genealogy in para No.2 of the plaint have not been impleaded in the suit. As well as the officers of the existing Grampanchayat Committee have not been impleaded in the suit. Hence, the suit is bad-in-law for the Non-joinder of necessary parties. The allegations asserted by the plaintiffs that, the plaintiffs and defendant and others have previously formed one and the same joint family are totally false. All these allegations put up by the plaintiffs are totally baseless. The defendant submits that, the suit property is not an idol house. It is not deity house. Suit property is not the place of worship. The plaintiffs play the worship to the deity in their own house. As well as the defendant enjoy the worship in his own house. The defendant submits that, any festival ceremony have been not performed since today in the suit property as alleged by the plaintiffs. The allegations raised by the plaintiffs in respect of the personal character of the defendant are totally false and baseless. The defendant further submits that the Grampanchayat Milkat No.147 and 148 are belonging to and in actual, exclusive physical possession of the defendant as an absolute owner of the same. These properties are originally the residential house properties of the defendant. These properties i.e. Grampanchayat Milkat No.147 and 148 were very old in age and came in collapsed condition. Hence, the defendant demolished these properties. Further, the defendant constructed a new residential house building on the place of Grampanchayat Milkat No.147, the work of the said construction was completed prior to the filing of the present suit. The Said construction is made up to 10 feet in height prior to the filing of the present suit. In this matter, the Hon'ble Court has passed the status-quo order. Hence, the work of

construction on the Grampanchayat Milkat No.148 is stopped. This fact caused a great and untold loss and damages to the defendant. It is important to note that the defendant has obtained the necessary permission from the concern Grampanchayat Committee for the said construction on the Grampanchayat Milkat No.147 and 148. The defendant has not made any new construction in the alleged suit property. It is the fact that, the plaintiffs or anybody else has no concern whatsoever with the title, right or possession of the suit property bearing Grampanchayat Milkat No.147 and 148. Hence, there is no cause of action arose for the present suit and the one which is shown by the plaintiffs is false and imaginary one. Hence, considering all these reasons, the application be rejected.

04. In view of the contentions of the parties, arguments advanced at bar, following are the points for determination along with my findings thereon for the reasons ensuing.

Sr.No.	Points	Findings
1	Whether plaintiff has made out prima-facie case in her favor ?	Yes.
2	Whether balance of convenience tilts in favor of granting application ?	Yes.
3	Whether irreparable loss will be caused to the plaintiff if the application does not come to be granted ?	Yes.
4	What order ?	Application is allowed.

REASONS

AS TO POINTS NO. 01 TO 03 :-

05. Heard learned advocate for the plaintiff he submitted that the plaintiff is having prima-facie case and as such if the relief claimed by the plaintiff is not granted then irreparable loss caused to the plaintiff cannot be compensated in terms of money and as such the plaintiff is entitled for the relief claimed by them.

06. On the other hand, heard Learned Advocate for the defendant have filed their written argument below exh.48 and contended that the suit is not tenable as the description of the suit property is wrongly mentioned by the plaintiff. Hence, the application cannot be granted as the suit property is not in existence and as such there is no urgency to the plaintiff for grant of ad interim relief. It is also contended that the Grampanchayat have granted sanction letter in the name of the defendant. Hence, considering all these aspects the application of the plaintiff be rejected.

07. It seen that since year 2025 the status-quo order is granted in favour of plaintiff. The plaintiff have produced on record various documents including Grampanchayat extract of the suit properties in the name of the plaintiff. The plaintiff have also filed various affidavits of the witnesses who are setting that the plaintiff are suit property. Also perused the commission report filed in the present matter it is seen that there is a temple house in this suit property as stated by the plaintiff. The plaintiff have also filed one news Article which is latest one in which the photograph of defendant is seen along with the plaintiffs performing some kind of Hindu rituals in the same property

as stated by the plaintiff. On the other hand, there are no such document filed by the defendants to prove that he is a having some kind of interest or right over the suit property. Hence, it is seen that the plaintiffs are having some kind of rights over the suit property. On the other hand when the application for status-quo was moved by the plaintiff it was formally opposed by the defendants. Hence, it is seen that the defendants are having no objections and just formally opposed the application moved by the plaintiff for status-quo. If the defendants were having urgency to vacate the status-quo order then in that case the defendants might have moved for vacating the status-quo order. Only one application by filed by the defendants in October 2025 to decide Exh.5 but no prayer was made by the defendants to vacate the status-quo order. Similarly said application below Exh.45 was not pressed till date for the reasons best known to the defendants. Hence, due to lack of proper documents and other evidence and any documents showing the right of the defendants over the suit property the defence taken by the defendants is not tenable. Till date the defendant have not pressed the Exh.5 for the reasons best known to the defendants. Suit is filed for declaration and mandatory injunction Hence, the application filed by the present plaintiff is having merit. On the other hand the defence of the defendants is having no base. If at all having any merit same will be decided after the conclusion of the trial but not at this stage. Hence, at this stage a prima facie case is made out by the plaintiffs, balance of convenience lies in the favor of plaintiff and irreparable loss will be caused to the plaintiffs if this application is not allowed. Hence, I answer point no. 1 to 3 in affirmative and proceed to pass following order in answer to point no.4.

ORDER

- 1) Application is allowed.
- 2) The defendant is directed not to construct any construction over the suit property and not to change the structure of the suit property till the conclusion of the trial.
- 3) The defendant is further directed he along with his family members not to obstruct the plaintiff or his family members to use the suit property and enjoy is full possession over the suit property till the conclusion of the trial.
- 4) No order as to cost.

Sd/-

(V. S. Agarwal)
Civil Judge Jr.Dn.,
Chandgad.

Place : Chandgad.
Date : 05/05/2026.