


MHKO140001932026 	Regular Civil Suit No.37/2026 Eknath Narsu Pawar/Powar & Ors. Vs. Manohar Narayan Pawar/Powar & Ors.
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ORDER BELOW EXHIBIT- 05
(passed on- 09/03/2026)

1. This is an application for grant of temporary injunction and the plaintiff therein prayed for ad-interim ex-parte injunction to restrain the defendant from carrying out construction in the suit property.
2. The learned advocate Shri. N. N. Gavade for plaintiff submitted that, the plaintiff and defendant are joint owner of the suit property. Plaintiff has filed suit for partition and separate possession. Defendant no.1A & 1B are causing obstruction and carrying out construction in the suit property. They are trying to change the nature of suit property. Therefore, it is necessary to restrain the defendants from carrying out construction till their appearance.
3. I have perused the entire application along with the documents. Heard the learned advocate for the plaintiff.
4. **Order 39 Rule 3 of Code of Civil Procedure** provides that the Court shall in all case, except where it appears that the object of granting the injunction would be defeated by the delay, before granting an injunction, direct notice of the application for the same to be given to the opposite party so it is clear in view of aforesaid provision that, issuance of notice is a general rule and granting injunction without notice is an exception.
5. The Hon'ble Supreme Court in Morgan Stanley Mutual Fund vs Kartick Das (1994) 4 SCC 225 Provided certain guiding

principles in relating to the grant of an ad interim injunction., the Hon'ble Supreme Court held that, - *As a principle, ex-parte injunction could be granted only under exceptional circumstances. The factors which should weigh with the court in the grant of ex-parte injunction are-*

- a) Whether irreparable or serious mischief will ensue to the plaintiff,*
- b) Whether the refusal of ex-parte injunction would involve greater injustice than the grant of it would involve,*
- c) The court will also consider the time at which the plaintiff first had notice of the act complained so that the making of improper order against a party in his absence is prevented,*
- d) The court will consider whether the plaintiff had acquiesced for sometime and in such circumstance it will not grant ex-parte injunction,*
- e) The court would expect a party applying for ex-parte injunction to show utmost good faith in making the application,*
- f) Even if granted, the ex-parte injunction would be for a limited period of time*
- g) General principle like, prima-facie case, balance of conveniences and irreparable loss would also be considered by the court.*

6. In view of aforesaid guideline, it is the duty of plaintiff to satisfy the Court that if the ad-interim ex-parte injunction is not granted then the purpose of granting injunction would be defeated by delay. It is

seen that the plaintiff has filed present suit for partition and separate possession and perpetual injunction. The plaintiff on affidavit stated that, the defendants are illegally carrying out construction in the suit property. The plaintiff has filed on record copy of sale-deed, copy of village form no.8. It prima-facie shows that the predecessor of plaintiff and defendant joint the purchase of land bearing G.P.P.no.190. However, whether the parties are in joint possession or not ?, whether the parties are in separate possession, these are the aspect which has to be considered while deciding application below Exh.5. The photo copy filed on record shows that some construction is going on and said construction is at base level. However, at this stage, without going into merits of the matter, it prima-facie appears that, some construction is going on in the disputed map. However, the application below Exh.5 will be decided after hearing on both side. But at this stage it would be proper to stay the construction till the appearance of defendants in order to avoid the complications. It will not cause prejudice to the defendants or huge loss. Because the stay will be for short period. Hence, I pass following order.

ORDER

1. Prayer for ad-interim ex-parte injunction is allowed.
2. The defendant no.1A & 1B are hereby temporarily restrained from carrying out further construction in the suit property till their appearance.
3. The plaintiff to comply mandatory provisions as laid down in Order 39 Rule 3 of the Code of Civil Procedure, that is - to delivered to opposite party, or to send by registered post, the copy of application for injunction together with affidavit, copy of plaint, copies of document on which the applicant relies.
4. Plaintiff to file an affidavit stating that the copies aforesaid have been so delivered or send, in the court today itself or immediately on next day.
5. As per submission of learned advocate EP and SB is allowed.

RCS.NO.37/2026, (Exh.5)

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Returnable on 16/03/2026.

Date: 09/03/2026

[Waman D. Jadhav]
Jt.Civil Judge Junior Division, Chandgad.
[Judge Code- MH3143]