


MHKO140006932025 	<b>Regular Civil Suit No.165/2025</b> <b>Vhalyappa Rudrappa Kamble</b> <b>Vs.</b> <b>Piyedad Jokishaver Diyos</b>
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**ORDER BELOW EXHIBIT- 05**  
**(passed on- 09/09/2025)**

1. This is an application for grant of temporary injunction and the plaintiffs therein prayed for ad-interim ex-parte injunction to restrain the defendant carrying out construction till their appearance.
2. The learned advocate for plaintiff submitted that, the plaintiffs are owner and possessor of the suit property. The defendants have no concern with the same. Plaintiffs name recorded in the 7/12 extract of the suit property. The defendant is carrying out illegal construction in the suit property. If the construction is not stayed then the nature of suit property will be changed and it will cause irreparable loss to the plaintiff. Hence, present application.
3. I have perused the entire application along with the documents. Heard the learned advocate for the plaintiffs. The ld. advocate for plaintiffs argued that there is urgency as the defendant carrying out construction in the suit property.
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. Therefore 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.

5. It is seen that the plaintiffs has filed present suit for mandatory and perpetual injunction. It is true that, the ex-parte injunction can be granted if there is such urgency where if the injunction is not granted then the purpose of granting temporary injunction will be defeated by delay. However, it is seen that the name of plaintiff is recorded in the revenue record. The photographs filed on record shows that some construction is going on and said construction is at basement level. At this stage no inference can be drawn that the said construction is going on in the suit property or not. But it is seen that the construction is just started and to avoid the further complication it would be proper to stay the said construction till the appearance of defendant. If defendant is restrained from carrying out construction, it would not cause prejudice or loss to the defendant. Because the stay will be till the appearance of defendant and after hearing both side the application below Exh.5 will be decided. However, it would help in avoiding the further complication and multiplicity of litigation. Hence, I pass following order.

#### **ORDER**

1. Prayer for ad-interim ex-parte injunction is partly allowed.
2. The defendant is hereby temporarily restrained from carrying out construction in the suit property till his appearance.
3. The plaintiffs 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. Plaintiffs 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.

**Returnable on 18/09/2025.**

Date: 09/09/2025

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