


MHKO140007602025 	<u>Regular Civil Suit no.183 of 2025</u> Maya w/o Shankar Dalavi VS Raghunath Ravalu Patil @ Gawada
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ORDER BELOW EXHIBIT- 5

[Passed on: 05/05/2026]

1. This application is made by plaintiff for grant of temporary injunction under Order 39 Rule 1 and 2 of the Code of Civil Procedure, 1908 and thereby prayed –

(a) to restrain the defendants from alienation or any type of transfer of the suit property to third party till final decision of the suit.

Subject Matter of the suit:

A. Agricultural Land situated at village Kitavade, Taluka Chandgad, Dist. Kolhapur, described as under is the subject matter of the suit-

Sr no.	R.S. No	Area H. Ares	Assessment	Disputed
1	51	2 H 77 Ares PK 3.60 Ares PK 0.25 Ares	1.45	0 H 92.33 Ares
2	62	5 H 19 Ares PK 1.25 Ares	2.15	0 H 71.67 Ares
3	92	4 H 78 Ares PK 1.13 Ares	1.75	1 H 59.33 Ares
4	102	0 H 68 Ares PK 1.13	0.69	0 H 22.67 Ares

B. Agricultural Land situated at village Jelugade, Taluka Chandgad, Dist. Kolhapur, described as under is the subject matter of the suit-

Sr no.	R.S. No	Area H. Ares	Assessment	Disputed
5	11	1 H 24.5 Ares	13.25	0 H 62.30 Ares

(hereinafter aforesaid properties are referred to as 'the suit properties')

Facts pleaded by the plaintiff:

2. It is contended that, the plaintiff and defendants are related by blood with each other. They are members of Mitakshara coparcenary having acquired right by birth. The deceased grandfather of plaintiff and his two brothers have purchased the suit property under section 32G of the BT and AL Act. Their names were recorded in the revenue record of the suit property. There was amicable partition in between the grandfather of the plaintiff and his two brothers. Specific area was allotted to him. So, separate entry was made in his name in the record of right. He died in the 1980. Hence, the names of the defendant no.1 and 2 are entered in the record of rights. However, the entire family came in actual possession and cultivation of the suit property.

3. Out of suit property, the Government has acquired certain lands for minor irrigation department and by PWD, as mentioned under-

Agricultural Land situated at village Kitavade, Taluka Chandgad, Dist. Kolhapur, described as under is the subject matter of the suit-

Sr no.	R.S. No	Acquired Area H. Ares
1	51	0 H 3.40 Ares + 0.45 Ares
2	62	0 H 3.44 Ares
3	92	00.0
4	102	0 H 85 Ares

4. As per acquisition, the State Government has paid the compensation amount and said amount is received by the defendant

no.1 and 2 only. They have received lakhs of rupees, but not paid single paisa to the plaintiff. It is submitted that, the suit property Gat no.11 is purchased for consideration of Rs. 2,25,000/- by the plaintiffs family. Said amount was paid out of joint family fund. Being Karta, said land was purchased in the name of defendant no.1. However, as per wardi application of defendant no.1, mutation was certified and the name of defendant no.5 was also entered.

5. Thus the suit properties are ancestral and joint family property of plaintiff and defendants. It is not partitioned by metes and bound. It is in joint and common possession of the plaintiff and defendants. They have equal share in the suit property. The plaintiff is entitled for 1/10th share in the suit property. The defendants are causing obstruction and trying to oust the plaintiff. The defendants are not in exclusive possession of the property. However they are threatening the plaintiff for dire consequences. The defendants, without effecting partition, are trying to sale out the suit property. The suit will take some time to reach its final conclusion. Therefore, till the final disposal of the suit, it is necessary to issue interim injunction against the defendants from alienation of the suit property. If the injunction is not granted then, the plaintiff will suffer irreparable loss subject to untold hardships. It will also result into multiplicity of the litigation. Prima-facie case and balance of convenience is in favour of the plaintiff. Therefore, It is necessary to restrain the defendants from alienation or transfer of the suit property.

Facts Pleaded by the Defendants:

6. The defendant no.1, 2, 4 to 5 have filed say at Exh.32 and raised objection to the present application. It is submitted that, the contents of the present application are false and imaginary. It is submitted that, the suit properties at para 1A were tenanted land and those are purchased by the defendant no.1 and 5 by depositing

purchase price as per provision of the Tenancy Act. That, the suit property at serial no.1B are also purchased by the defendant no.1 and 5. That, the purchase price of the suit property is paid by the defendant no.1 and 5 as determined by the Tenancy Court on 2/5/1980. The defendant no.1 has paid the said amount of Rs 370 from his own income as he was working as Police Patil.

7. It is submitted that, the properties are not ancestral property of deceased Ravalu (predecessor of plaintiff and defendants). The suit properties are the self acquired properties of the defendant no.1 and 5. They are owner and actual possessor of the suit property. Their names are entered into 7/12 extract of the suit property. The plaintiff has no concerned with it. She never possessed the said property as she got married in the year 1992. The plaintiff has filed false suit and it liable to be dismissed. The burden of proof is on the plaintiff and hence, at this stage injunction cannot be granted. Hence application is liable to be rejected.
8. The defendant no.3 appeared and filed pursis at exhibit 36 thereby submitted to allow the suit.
9. I have read the application, say thereon and perused the documents. Heard learned advocate Shri S. S. Kot for plaintiff and Shri N. N. Gawade for defendants. Following are the points for my determination along with my findings and reasons thereon.

Sr. no.	Points	Findings
1	Whether plaintiff proves prima-facie case ?	Yes
2	Whether balance of convenience lies in favour of the plaintiff ?	Yes
3	Whether plaintiffs would suffer irreparable loss if the application is rejected ?	Yes

4	What order?	As per final order
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REASONS

As to Point no. 1 to 3

10. *At this stage it is necessary to see that, whether the plaintiff has a prima-facie case or not. Order 39 Rule 1 & 2 of Code of Civil Procedure confers discretionary power on civil court to grant temporary injunction where it is proved by affidavit or otherwise that, the suit property is in danger of being wasted, damaged or alienated by the party to the suit or where the defendant threatens to dispossess the plaintiff or to cause injury. The purpose of granting temporary injunction is to protect the subject matter of suit during the pendency of the suit. But for getting the relief under this rule the plaintiff must prove that, he has a prima-facie case, the balance of convenience is lies in his favour and more hardship will cause to him if injunction is not granted.*
11. I have heard the arguments of both side. The learned advocates for both side, initially narrated their facts of the case and referred documents, affidavits filed on record. Documents are referred in the order at appropriate place. The learned advocate Shri S. S. Kot, argued that, the dispute in respect of nature of the suit property will be decided on merit. But till final decision of the suit, the subject matter needs to be protected from being alienated. He further argued that, if the injunction is granted, then the defendants will not suffer any loss or prejudice, but if it is rejected, then the plaintiff will suffer irreparable loss and prejudice. It is will also result into complication. Hence, it is submitted to allow the application.
12. On the contrary, learned advocate Shri N. N. Gawade for defendants argued that, the suit itself not tenable as necessary

parties are not added. Hence, interim relief cannot be granted. He further argued that, the suit properties are not ancestral properties. It is tenanted land and purchased by the defendant no.1 and 5 by paying prescribed price. It is argued that, certificate under section 32G are in the name of defendant and hence, they are the absolute owner. It is their self acquired property. There is no prima-facie case in favour of the plaintiff to get the relief. If the injunction is granted then, it will cause prejudice to the defendants. Accordingly, it is prayed to reject the application.

13. On perusal of the contention of the both side it is seen that, there is dispute in respect of nature of the suit property. According to plaintiff, the suit property is ancestral and joint family property of plaintiff and defendants. Whereas according to defendant it is their self acquired property. So it is to be seen that whether the plaintiff is entitle for the relief of temporary injunction in given facts and circumstances.
14. It is seen that there is no dispute in respect of the relation between the parties. The plaintiff and defendant are related by blood. There predecessor Ravalu died in the year 1980. The plaintiff has filed on record 7/12 extract of the suit property, mutation entry no.514. On perusal of those documents it is seen that the name of plaintiffs grandfather Ravalu is mentioned as cultivator of the suit property para no.1A. Recent 7/12 extracts of the suit properties shows that the names of the defendants are jointly recorded. The name of plaintiff is not appearing the revenue record. But old revenue record shows that the suit property at para no.1A was possessed by plaintiffs grandfather Ravalu as tenant.
15. According to defendant the suit property is their self acquired property as defendant no.1 and 5 have paid the purchase price fixed by the Tenancy Court. The defendants have filed on record the

challan showing payment of Rs.370/- to the Government. The defendant has also filed copies of notice issued by Tenancy Court to the plaintiffs grandfather Ravalu for payment of the purchase price. However, it is seen that the said purchase is paid by the defendant no.1. Accordingly, the name of defendant is recorded in the revenue record. But earlier to that, the grandfather of plaintiff was in possession of the suit property as tenant. Though, the purchase price is paid by the defendants, but it is to be proved or opportunity needs to be given to the plaintiff to prove that, the said purchase was for and on behalf of the entire. So, said fact is in issue and it is matter of adjudication in the trial. Therefore, I am of the view that, the plaintiff has prima facie case which requires further trial and consideration of evidence of both side. No at this stage, it would not be proper to jump to the conclusion that, the suit properties are self acquired properties of the defendants only.

16. As stated above the suit property at para 1A were tenanted land and it's purchase price is paid by defendant no.1. However, according to plaintiff the name of defendant no.1 is recorded on behalf of entire family as Karta of Hindu Undivided Family. In such situation it would be proper to give opportunity to the plaintiff to establish their contention regarding Joint Family Property and Ancestral Property. The plaintiff has prayed for injunction restraining the alienation of the suit property. Considering the relief claimed I am of the view that it would be proper to protect the nature of suit property from being changed by way of alienation. If the application is allowed then no prejudice or loss will be caused to the defendants. Rather it would help in avoiding the complication and multiplicity of the litigation.

Accordingly I answer point no. 1 to 3 in Affirmative.

As to point no. 4

To answer point No. 4 I pass following order.

ORDER

1. The application is allowed.
2. The defendants are temporarily restrained from alienation and transfer of suit property in any manner to third person till final decision of the suit.

Date: 05/05/2026

[Waman D. Jadhav]

Joint Civil Judge Junior Division, Chandgad.
[Judge Code- MH03143]