


<p><u>MHKO190000372026</u></p> 	<p><u>ORDER BELOW EXH. 5</u></p> <p><u>IN</u></p> <p><u>R.C.S. No. 11/2026</u></p> <p><u>(Pravin Namdev Dhavan Vs.</u></p> <p><u>Pralhad Baburao Dhavan)</u></p> <p><u>DATE : 23/04/2026</u></p>
---	--

The plaintiffs have preferred the present application under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, seeking grant of temporary injunction, restraining defendants from causing obstruction to their peaceful possession.

2. The relief pertains to the properties bearing Block Nos. 502, 503, 504, 505, 506 and 507, situated at village Naratawade, Taluka Radhanagari, District Kolhapur (hereinafter referred to as the “suit properties”).

3. The plaintiffs have contended that they and the defendants originally held ancestral properties at villages Naratawade and Mangewadi. During the consolidation proceedings undertaken in both villages, the predecessors of the defendants represented before the Consolidation Officer that, for the sake of convenience, the properties situated at Mangewadi be allotted exclusively to their branch, while the properties at Naratawade be allotted exclusively to the branch of the plaintiffs.

4. However, despite such understanding, the Consolidation Officer allegedly failed to record the names of the plaintiffs' predecessors in respect of Block Nos. 502, 503 and 504. The plaintiffs assert that, notwithstanding this erroneous recording, their predecessors and thereafter the plaintiffs themselves have been in continuous possession of the suit properties since the year 1966.

5. It is further submitted that the predecessors of the defendants had, in the years 1976 and 1980, approached the Talathi seeking correction of the revenue record by entering the names of the plaintiffs' predecessors. However, the Talathi rejected the said request on the ground of lack of authority. According to the plaintiffs, the defendants have now started causing obstruction to their peaceful possession and are issuing threats. Hence, the present application for temporary injunction has been filed.

6. On the other hand, defendant Nos. 1 to 3, by filing their say at Exh. 19, have opposed the application contending that the averments made therein are false and incorrect. It is submitted that their predecessors never consented to the transfer of suit Block Nos. 502, 503 and 504 in favour of the plaintiffs' predecessors while undergoing consolidation. According to them, the plaintiffs have no right, title or interest in Block Nos. 502 and 503 and were never in possession thereof. It is further contended that the consolidation scheme has already been duly implemented by the Consolidation Officer and, therefore, the plaintiffs cannot challenge

the same before the Civil Court. On these grounds, they have prayed for rejection of the application.

7. Defendant No. 4, by filing his say at Exh.17, has also opposed the application. He has contended that the plaintiffs have no right, title or interest in suit Block No. 504 and that they were never in possession thereof. According to him, he and his predecessors have been in possession of the said property since the year 1960. He has further contended that the suit is barred under the provisions of the Fragmentation and Consolidation Act. Hence, he has prayed for rejection of the application.

8. Having heard arguments of the Ld. Advocates conscientiously, perused documents, affidavits on record, considering the controversy following points arise for my consideration against which I have given my findings and appended my reasons to follow :

Sr. No.	Points	Findings
1.	Whether the plaintiffs have made out a <i>prima facie</i> case for grant of temporary injunction ?	No
2.	Whether the balance of convenience lies in favour of the plaintiffs ?	No
3.	Whether the plaintiffs will suffer irreparable injury if injunction is refused ?	No

4.	What order ?	As per final order.
----	--------------	---------------------

REASONS

As to point Nos. 1 to 4 :-

As all the points are interconnected, they are taken for simultaneous discussion to avoid repetition.

9. The plaintiffs and defendant Nos. 1 to 5 admittedly trace their origin to a common ancestor, namely Bajappa. Late Bajappa had two sons, Ganu and Govind. The plaintiffs belong to the branch of late Ganu, whereas defendant Nos. 1 to 5 belong to the branch of late Govind. Defendant No. 6 is a purchaser and is joined as a formal party.

10. The plaintiffs have placed on record 7/12 extracts of the suit properties at Exh. 3/1 to 3/7. They have also relied upon a statement of predecessors (Exh. 3/8) made in the consolidation scheme. However, on perusal, the said statement *prima facie* pertains to properties situated at village Mangewadi and does not reflect any arrangement or statement in respect of the suit properties situated at village Naratawade. On the contrary, the defendants have produced 7/12 extracts of suit Block Nos. 502, 503 and 504 from the year 1971 till 2016 (Exh. 35 and 37), which *prima facie* indicate possession of the defendants' predecessors

since 1971. Significantly, no material is produced by the plaintiffs to show that they or their predecessors had raised any objection to such long-standing revenue entries in favour of the defendants.

11. The plaintiffs have relied upon applications (along with Exh.39) made before the Talathi in 1976 alleging incorrect entries in consolidation. However, it is an admitted position that no changes were effected pursuant to those applications. Therefore, at this stage, such applications do not advance the plaintiffs' case to establish their possession. The sale deed at Exh. 39/4 executed between plaintiff No. 8 and defendant No. 6 pertains to $\frac{1}{2}$ share in Block No. 505, which is not the subject matter of dispute in the present application. The controversy is essentially confined to Block Nos. 502, 503 and 504, in respect of which the defendants have specifically disputed the plaintiffs' possession.

12. Both sides have placed reliance on affidavits of several witnesses. On behalf of the plaintiffs, witness Baburao (Exh. 24) has stated that he provides water pipeline services and that the plaintiffs have been availing his services for the suit properties, asserting their cultivation and possession. Witness Tukaram (Exh. 25) has stated that he purchased a portion from Block No. 505 and is in possession of Block Nos. 505 and 504, while asserting that the plaintiffs are in possession of the remaining suit properties. Witness Krishna (Exh. 26), owner of adjacent Block No. 439, has supported the plaintiffs' case of cultivation and possession. Witness Maruti (Exh. 27), who served as Police Patil of village Mangewadi from 1986 to 2016, has stated that he resides near the suit properties

and that the plaintiffs are cultivating the same. Witness Ananda (Exh. 28) and witness Vilas (Exh. 29), both owners of adjacent lands, have also supported the plaintiffs' claim of possession. Plaintiff No.1 has filed his affidavit at Exh. 40 supporting his application.

13. On the other hand, the defendants have also adduced affidavit evidence. Witness Mahadev (Exh. 22) has stated that he uses a right of way through the suit properties and that the defendants are in possession of Block Nos. 502 to 504. Witness Rajaram (Exh. 23), residing adjacent to the suit properties, has deposed that the defendants are in long-standing possession and that the plaintiffs have never been in possession. Defendant No. 2 has also filed his affidavit at Exh. 20 supporting the stand taken in the say.

14. Upon appreciation of the aforesaid material, it is evident that the affidavit evidence led by both sides is mutually contradictory and consists largely of interested or local witnesses claiming knowledge of possession. Such affidavits, in absence of cogent supporting documentary evidence, cannot outweigh consistent and long-standing revenue records. At this stage, the 7/12 extracts produced by the defendants from 1971 onwards carry significant evidentiary value at this *prima facie* stage and indicate continuous possession of the defendants' branch. The plaintiffs have failed to produce any contemporaneous revenue record reflecting their possession or to demonstrate that they challenged the entries within a reasonable time. Mere assertions

through affidavits, without corroboration from reliable documentary evidence, are insufficient to displace the presumption arising from official revenue entries placed on record at this juncture.

15. It is pertinent to note that the documents produced along with Exh. 31 pertain to Mangewadi Grampanchayat and do not relate to the suit properties situated at Naratawade; hence, they do not assist the plaintiffs. The photographs produced at Exh. 33 themselves indicate a different location (Aknur) and do not *prima facie* establish possession over the suit properties. The FIR at Exh. 33/5 pertains to an alleged scuffle between the parties and, by itself, does not establish possession, particularly in light of the stronger documentary evidence placed by the defendants.

16. In view of the above discussion, the plaintiffs have failed to establish a *prima facie* case of possession over suit Block Nos. 502, 503 and 504. The balance of convenience cannot be said to be in their favour when long-standing revenue records indicate possession of the defendants. No case of irreparable injury is made out so as to warrant interference at this interlocutory stage. Consequently, the application for temporary injunction does not deserve to be allowed and is liable to be rejected. Accordingly **point Nos. 1 to 3** are answered in the **negative**. In answer to point No.4, the following order is passed :

ORDER

1. The application (Exh.5) is rejected.

2. No order as to costs.

Sd/-

Radhanagari

(N. P. Kakade)

Date : 23-04-2026

Jt. Civil Judge Junior Division,
Radhanagari.
