


<p><u>MHKO190003782025</u></p> 	<p><u>ORDER BELOW EXH. 5</u></p> <p><u>IN</u></p> <p><u>R.C.S. No. 101/2025</u></p> <p><u>(Indubai Krushna Patil Vs.</u> <u>Balwant Krushna Patil and others)</u></p> <p><u>DATE : 21/04/2026</u></p>
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The plaintiff, by way of the present application, seeks a temporary injunction restraining defendant Nos.1 and 2 from interfering with her possession of the suit properties in her capacity as owner.

2. The plaintiff has instituted the present suit seeking declaration, permanent injunction, cancellation of the partition deed, partition, and mesne profits. Her case, in brief, is that out of the properties described in paragraph No.1 of the plaint (in short suit properties), Block Nos. 20, 22, 319 situated at Mogharde, Tal. Radhanagari, Dist. Kolhapur, and Grampanchayat Property No. 184 are her self-acquired properties. According to her, these properties were purchased from funds gifted to her by her husband from time to time. The remaining properties are stated to be ancestral.

3. It is further her contention that defendant No.1, her son, fraudulently procured the execution of a registered partition deed in the year 2012, which she does not acknowledge as valid or binding. She asserts exclusive ownership over her self-acquired properties. Additionally, she alleges that defendant No.1 and his wife, defendant No.2, have subjected her to ill-treatment and are now attempting to interfere with her possession. On these grounds, the plaintiff has sought

an interim order restraining defendant Nos. 1 and 2 from obstructing her possession of the suit properties.

4. On the other hand, defendant Nos. 1 and 2, by filing their say at Exh. 25, have strongly opposed the application. They contend that none of the suit properties are the self-acquired properties of the plaintiff and that all the properties are ancestral in nature. According to them, the said properties have already been partitioned by way of a registered partition deed, of which the plaintiff had full knowledge since its execution.

5. It is further their case that defendant Nos. 1 and 2 have duly taken care of the plaintiff and have not subjected her to any ill-treatment. They have also stated that the plaintiff and her husband had a son named Ananda, who was given in adoption. According to them, Ananda did not maintain cordial relations with the plaintiff, defendant No.1, and their family in the past. However, recently, the plaintiff re-established contact with him out of sympathy, and it is Ananda who has instigated and influenced the plaintiff to institute the present suit, thereby causing discord between her and defendant No.1. On these grounds, defendant Nos. 1 and 2 have prayed for rejection of the present application.

6. 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 ?	Yes

2.	Whether the balance of convenience lies in favour of the plaintiffs ?	Yes
3.	Whether the plaintiffs will suffer irreparable injury if injunction is refused ?	Yes
4.	What order ?	As per final order.

REASONS

As to point No. 1 :

7. By the present application, the plaintiff has prayed for a temporary injunction restraining defendant Nos. 1 and 2 from obstructing her possession over the suit properties by asserting ownership rights. The plaintiff has instituted the suit for declaration, cancellation of the registered partition deed, permanent injunction, partition, and mesne profits. Ld. Advocate for the plaintiff argued that Block Nos. 20, 22, 319 and Grampanchayat Property No. 184 are her self-acquired properties, purchased from amounts gifted by her husband. It is further her case that defendant No.1, her son, has fraudulently got executed a registered partition deed in the year 2012, which is not binding upon her. She has also alleged ill-treatment at the hands of defendant Nos. 1 and 2 and apprehends obstruction to her possession.

8. Ld. Advocate for defendant Nos. 1 and 2 vehemently argued that all the suit properties are ancestral in nature and have already been partitioned by a registered partition deed, which was within the knowledge of the plaintiff. He has denied the allegations of ill-treatment and contended that they have taken due care of the

plaintiff. It is further their case that one Ananda, who was given in adoption, has instigated the plaintiff to file the present suit.

9. The plaintiff has produced 7/12 extracts of Block Nos. 20 and 319 (Exh. 3/1, 3/2 and 3/5), which stand in the name of defendant No.1, and of Block No. 22 (Exh. 3/4), which stands in the name of defendant No.2. She has also placed on record a photocopy of the registered partition deed (Exh. 3/24), which indicates that the properties were partitioned, in respect of which she has contented committal of fraud.

10. It is significant to note that, registered sale deed of Block No. 22 (Exh. 33/12), produced by plaintiff, stands in her name, thereby at this juncture, lending support to her contention that some of the suit properties were originally acquired by her. Also, the mutation entry No.100 produced at Exh.33/5 *prima facie* support the theory of self-acquired property. Further, the tax receipts (Exh. 33/6 to 33/11) show that Grampanchayat Property No. 184 earlier stood in the name of the plaintiff, whereas the recent assessment (Exh. 3/26) stands in the name of defendant No.1.

11. It is equally pertinent to note that the applications produced along with Exh. 23 indicate that the plaintiff has approached various authorities alleging that her name has been fraudulently deleted from the record of Grampanchayat Property No. 184. These circumstances *prima facie* raise a triable issue regarding the nature of the properties and the validity of the partition deed.

12. Thus, at this stage, it cannot be conclusively held whether the properties are self-acquired or ancestral, or whether the partition

deed is valid. However, the material on record is sufficient to hold that the plaintiff has established a *prima facie* case for trial.

13. The revenue records pertaining to certain suit agricultural properties stand in the names of defendant Nos. 1 and 2. The affidavit of tenant Tanaji (Exh.28) indicates that he pays rent to defendant No.1 and sometimes on the say of defendant No.1, has paid in the name of the plaintiff. Witness Indubai for defendant No.1 (Exh. 26) stated in her affidavit that she was appointed as home nurse to take care of the plaintiff. Further witness Mahadev in his affidavit (Exh. 27) has stated that Ananda caused damage to defendant's house property, showing Ananda's conduct.

14. The plaintiff has produced tax assessments of other grampanchayat properties in the name of Defendant No.1. Defendant No.1 has filed his affidavit in support of the say at Exh.35. He has deposed that all those grampanchayat properties are ancestral in nature and other paternal uncles reside therein. Defendant No.1 has further asserted that he has taken proper care of the plaintiff and incurred medical expenses for her treatment, and has denied all allegations of fraud, ill-treatment, and interference with her possession.

15. So far as the said affidavit is concerned, the statements made therein are essentially in the nature of defence and are required to be tested during trial. The assertion regarding ancestral nature of the properties and validity of the partition deed is a matter which cannot be conclusively determined at this interlocutory stage. Similarly, the explanation regarding other properties and the care allegedly taken of the plaintiff may have some bearing on the conduct of the parties, but do not by themselves conclusively establish title or lawful possession over the suit properties. Hence, at this stage, the affidavits lend support

to the defence of defendant No.1, but does not dislodge the *prima facie* case made out by the plaintiff.

16. At the same time, it is an admitted position that Grampanchayat Property No. 184 was earlier in the name of the plaintiff. The photographs at Exh. 23/7 showing the nameplate of the plaintiff and the absence of clear material indicating her dispossession create a *prima facie* inference that her possession, particularly over the residential property, cannot be ruled out at this stage.

17. The contention of defendant Nos. 1 and 2 that the suit is filed at the instance of Ananda pertains to the motive behind the litigation and does not materially affect the adjudication of the present application.

18. The medical bills and documents produced by the defendants (Exh. 31) *prima facie* indicate that defendant No.1 has incurred expenses towards the treatment of the plaintiff. While this circumstance may reflect upon the conduct of the parties, it does not conclusively determine the rights in respect of the suit properties.

19. In the light of above entire discussion and considering all the documents on record, the plaintiff has shown *prima facie* case. Hence, **point No.1** is answered in the **affirmative**.

As to point No.2:

20. It is important to note that, if the injunction is refused at this stage, there exists a likelihood of disturbance to the plaintiff's possession during the pendency of the suit. Therefore, without expressing any opinion on the merits of the rival claims of ownership,

the balance of convenience tilts in favour of protecting the plaintiff during the pendency of the suit. Accordingly, **point No.2** is answered in the **affirmative**.

As to point No.3:

21. The plaintiff has alleged that she is in possession of the suit properties and apprehends interference at the hands of defendant Nos. 1 and 2. If such interference is not restrained, and the plaintiff is dispossessed or her possession is disturbed, the injury caused to her would not be adequately compensable in terms of money. It is not shown on the records neither pleaded that plaintiff the old lady has any other shelter for her residence.

22. In contrast, if the defendants are restrained from causing obstruction, they would not suffer any such irreparable loss, as their rights, if any, can be established during trial.

23. Hence, the plaintiff has made out a case of irreparable injury in the absence of protection. Accordingly, **point No.3** is answered in the **affirmative**.

As to point No.4:

24. In view of the foregoing discussion, though the plaintiff has not conclusively established her ownership over the suit properties, at this stage, she has succeeded in showing a *prima facie* case. The balance of convenience and the likelihood of irreparable injury are also in her favour.

25. Therefore, this Court finds it just and proper to allow the application and protect the possession of the plaintiff till the final adjudication of the suit, without expressing any opinion on the merits of the claims of ownership. Hence, in answer to point No.4, the following order is passed:

ORDER

1. The application (Exh.5) is allowed.
2. Defendant Nos.1 and 2 are hereby temporarily restrained from causing any obstruction or interference with the possession of the plaintiff over the suit properties block No.20, 22, 319 and grampanchayat Property No. 184, all situated at Mogharde, Tal. Radhanagari, Dist. Kolhapur , till the final disposal of the suit.
3. No order as to costs.

Sd/-

Radhanagari

Date : 21-04-2026

(N. P. Kakade)

Jt. Civil Judge Junior Division,

Radhanagari.