

MHKO190008182025



ORDER BELOW EXH. 5

IN

R.C.S. No. 195/2025

(Prahlad Baburao Dhawan Vs.

Ek Nath Atmaram Dhawan)

DATE : 23/04/2026

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 and damaging crops therein.

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

3. The plaintiffs submitted that the suit properties are owned by them and they are in possession of it. They are cultivating crops in it. However, on 09/11/2025, defendants threatened the plaintiffs. Hence, prayed for allowing the application.

4. The defendants have contended that they and the plaintiffs originally held ancestral properties at villages Naratawade and Mangewadi. During the consolidation proceedings undertaken in both villages, the predecessors of the plaintiffs 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 defendants. However, despite such understanding, the Consolidation

Officer allegedly failed to record the names of the defendants' predecessors in respect of Block Nos. 502 and 503. The defendants asserted that, notwithstanding this erroneous recording, their predecessors and thereafter the defendants themselves have been in continuous possession of the suit properties since the year 1966.

5. It is further submitted that the predecessors of the plaintiffs had, in the years 1976 and 1980, approached the Talathi seeking correction of the revenue record by entering the names of the defendants' predecessors. However, the Talathi rejected the said request on the ground of lack of authority. The defendants repeated that they are in possession and they own the suit properties. Hence, prayed to reject the 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 Nos. 1 to 4:-

7. As all the points are interconnected, they are taken up together for simultaneous discussion.

8. The 7/12 extracts at Exh. 3/1 and 3/2 prima facie record the names of the plaintiffs in respect of suit properties. At this interlocutory stage, such revenue entries carry presumptive value regarding possession. The plaintiffs have further supported their case by filing affidavit of Plaintiff No. 2 at Exh. 17, wherein he has specifically asserted their continuous possession and cultivation of the suit properties.

9. On the contrary, the defence raised by the defendants is primarily based on an alleged understanding during consolidation proceedings and a plea of erroneous recording by the Consolidation Officer. However, this contention is not substantiated by any contemporaneous documentary evidence. Significantly, it is an admitted position that no mutation entries or corrections in the revenue record have been effected in favour of the defendants till date. Thus, their claim remains unreflected in official records for decades.

10. The defendants have placed reliance on alleged consolidation errors of a distant past. However, no material is brought on record to demonstrate that they had taken any effective or timely steps before the competent authority for rectification of such alleged error. The absence of any proceedings or challenge over a long period prima facie indicates acquiescence. A party who asserts a long-standing

right but fails to pursue available legal remedies cannot, at this stage, displace the presumption arising from existing revenue entries.

11. At this stage, the Court is not required to conclusively determine title, but only to assess whether a prima facie case is made out. Revenue record in the name of the plaintiffs, coupled with absence of any rebutting documentary evidence from the defendants, tilts the prima facie assessment in favour of the plaintiffs. Moreover, the very assertion of ownership and threat by the defendants gives rise to a reasonable apprehension of obstruction to the plaintiffs' possession.

12. Insofar as the balance of convenience is concerned, the plaintiffs are shown to be in prima facie possession of the suit properties. If the injunction is refused, they are likely to be disturbed in their possession and cultivation. On the other hand, if the injunction is granted, the defendants would not suffer any prejudice, as they can always establish their alleged rights during trial. Therefore, the balance of convenience lies in favour of maintaining the existing state of affairs by protecting the plaintiffs' possession.

13. As regards irreparable loss, it is to be noted that the suit properties are agricultural lands and the plaintiffs claim to be cultivating crops therein. Any interference with such possession would not only disturb their enjoyment of the property but may also result in loss of standing crops, which cannot be adequately compensated in monetary terms. Hence, refusal of injunction would cause irreparable injury to the plaintiffs.

14. In view of the above discussion, the plaintiffs have succeeded in establishing a prima facie case, and the balance of convenience as well as the likelihood of irreparable loss also operate in

their favour. Hence, **points Nos. 1 to 3** are answered in the **affirmative**.
In answer to point No.4, the following order is passed:

ORDER

1. The application (Exh.5) is allowed.
2. The defendants, their agents and any person claiming through them are restrained from causing obstruction to the peaceful possession of the plaintiffs over the suit properties and from damaging the crops therein, till final disposal of the suit.
3. No order as to costs.

Radhanagari

Date : 24-04-2026

Sd/-

(N. P. Kakade)

Jt. Civil Judge Junior Division,
Radhanagari.