

MHLA010030932024



Received on : 10/09/2024
Registered on : 12/09/2024
Decided on : 13/03/2026
Duration : 01Y 06M 03Days.

**IN THE COURT OF ADHOC DISTRICT JUDGE-1, LATUR,
AT LATUR
(Presided over by : Vidyadhar S. More)**

Misc. Civil Appeal No.76/2024

Exhibit No:11

Bharat s/o Shivshankar Chounde,
Age.61 years, Occ. Agri.,
R/o. Jawla (Bk.), Tq. & Dist. Latur.
At present – Plot No.6, Ujjwal Dham,
Katpur road, Latur, Tq. & Dist. Latur.

*** **APPELLANT**
(Orig. Deft No.2)

:: VERSUS ::

1. Chandrabhan s/o Rama Bhalekar,
Age.65 years, Occ. Agri.,
2. Malhari s/o Chandrabhan Bhalekar,
Age.39 years, Occ. Agri.,
Both R/o. Kasarjawala,
Tq. & Dist. Latur.
3. Basling s/o Shivshankar Chounde,
Age.55 years, Occ. Business,
R/o. Infront of Gate No. 8, Market
Yard, Moti Nagar, Latur,
Tq. & Dist. Latur.

*** **RESPONDENTS**
(Orig. Plaintiffs)

*** **RESPONDENT**
(Orig. Deft. No.1)

Advocates' Appearance :

Shri B.P. Mane, advocate for Appellant.

Shri S.B. Pande, advocate for the Respondent No.1 & 2.

Respondent No.3 is ex-parte.

:: J U D G M E N T ::
(DELIVERED ON : 13.03.2026.)

This appeal is preferred against the order dated 13.08.2024 passed by 4th Jt. Civil Judge Junior Division, Latur on application for temporary injunction (Exh.5) in R.C.S. No.470/2023. The trial court granted temporary injunction application of the plaintiffs and restrained defendants from disturbing and interfering in the peaceful possession of the plaintiffs over the suit property till disposal of suit.

2. Appellant is the original defendant No.2, respondent Nos.1 & 2 are the plaintiffs and respondent No.3 is the defendant No.1 in original suit. Hereinafter, the parties are referred by their nomenclature in the original suit.

The plaintiffs' case is stated, in brief, as follows:

(A) **Land of plaintiff No.1 :**

Gat No. 4 Kasarjawala,

Area – 41 R.

The said land is bounded as follows:

Towards East – Land of Anant Kisanrao Lomte

Towards West – Land of plaintiff No.2

Towards South – Land of Santosh Sidhlingappa Byale

Towards North – Land of Vishwanath Nivrutti Lomte
and others.

(B) **Land of plaintiff No.2 :**

Gat No. 4 Kasarjawala,

Area – 25 R.

The said land is bounded as follows:

Towards East – Land of plaintiff No.1

Towards West – Land of defendant No.2

Towards South – Land of Santosh Sidhlingappa Byale

Towards North – Land of Vishwanath Nivrutti Lomte
and others.

3. Defendant No.1 was the owner of suit land. Defendant No.2 is brother of defendant No.1. They are separate by partition. The plaintiffs had been cultivating the suit land since last so many years as tenants of defendant No.1 on half crop share basis. The plaintiffs are illiterate agriculturists and they do not know reading and writing. In the year 2018 defendant No.1 sold out suit land -A to the plaintiff No.1 for valuable consideration of Rs. 6,56,000/- vide registered sale deed dated 10.01.2018. On the basis of sale deed plaintiff became absolute owner of suit land -A. The plaintiff

No.1 was already in possession of the suit land-A prior to the sale deed and his possession was confirmed and continued by the sale deed. In the sale deed executed by defendant No.1 boundaries of suit land-A have been correctly shown, but mistakenly defendant No.1 mentioned wrong and incorrect Gat number as Gat No.3 in the sale deed. But as far as boundaries are concerned, they are correct. So the plaintiff No.1 is owner of the suit land-A within the boundaries shown.

4. In the year 2019, defendant No.1 sold out suit land-B adm. 0 H. 25 R. for consideration of Rs. 4,00,000/- to plaintiff No.2 vide registered sale deed dated 07.06.2019. On the basis of sale deed plaintiff No.2 became absolute owner of suit land-B. Plaintiff No.2 was in possession of the suit land since prior to sale deed and his possession was confirmed and continued by the sale deed. In the sale deed executed by defendant No.1 the boundaries of the suit land-B have been correctly shown, but mistakenly the defendant No.1 mentioned wrong Gat number as Gat No.3. Though Gat Number is wrongly mentioned, the plaintiff No.2 is owner in possession of the suit land-B within the boundaries shown.

5. In the year 2021, defendant No.1 sold out 33 R. land to defendant No.2 out of Gat No. 4 vide registered sale deed on 12.03.2021 and while mentioning the eastern side boundary of said 0 H. 33 R. land, defendant has shown eastern side boundary

as land of plaintiff No.1 instead of showing it as land of plaintiff No.2. But the fact remains that there is indirect admission that the land of the plaintiff is there in Gat No.4.

6. Plaintiffs are taking crops in the suit land. The defendants have no right or concern with the suit land. But the defendants started obstructing the possession of the plaintiff by saying that suit land belongs to them. Hence, plaintiff was constrained to file the suit.

The case of defendant No.1 :-

7. Defendant No.1 has admitted that the plaintiffs were tenants of his land since from long prior to the sale deed on the basis of half crop basis. He has admitted about execution of sale deed in favour of the plaintiff No.1 and plaintiff No.2 in the year 2018 and 2019 respectively. The defendant No.1 has admitted that he sold out the lands mentioned in the boundary clauses in the sale deed to the plaintiffs and these lands are from Gat No.4. He has admitted that in the sale deeds mistakenly Gat No.3 is written. It is his contention that being illiterate person he was not having knowledge about the Gat number of land. As far as sale deed in favour of the defendant No.2 is concerned, it is the case of the defendant No.1 that he was caused to sign on the deed by misrepresenting him that it is a consent deed in respect of partition effected between them.

The case of defendant No.2 :-

8. It is contention of the defendant No.2 that plaintiffs have come before court by suppressing the real facts. The defendant No.2 has denied that plaintiffs were tenants of defendant No.1 on suit land prior to the sale deed on half crop share basis. This defendant has denied that in the sale deeds of plaintiffs Gat No. 3 is mentioned mistakenly instead of Gat No.4. It is contention of the defendant No.2 that on 13.06.2012 Superintendent of Land Record measured the land Gat No.4 and at that time Basling Chounde (defendant No.1) was found in possession of 56 R. It is contention of the defendant No.2 that in the sale deed dated 10.01.2018 total land of Basling Chounde is shown as 53 R. But plaintiff No.1 and 2 are claiming possession over 66 R. land which is against the record. Lastly, defendant No.2 has prayed for dismissal of the suit.

9. Heard learned counsel of the appellant and respondents. Learned counsel of the appellant vehemently argued and gave much stress on the point that in the sale deed in favour of plaintiff No.1 in the year 2018, defendant is shown as owner of 53 R. land. The defendant No.1 sold out 0 H. 41 R. land to the plaintiff No.1 and so only 0 H. 12 R. land remained with him. The defendant No.1 in the year 2019 sold out 0 H. 25 R. land to plaintiff No.2. Learned counsel of the appellant posed a question as to how defendant No.1 could sell more land than remaining 0 H. 12 R. land to plaintiff No.2. In short, it is contention of the

learned counsel of the appellant that the plaintiffs are claiming injunction in respect of excessive land and thereby intending to grab the property of appellant. Learned counsel of the appellant also argued that in the measurement carried out by TILR on 16.03.2012 defendant No.1 was found in possession of 56 R. in Gat No.4. He submits that even though it is assumed for while that in the sale deeds of the plaintiffs Gat No.3 is mentioned mistakenly instead of Gat No.4, the fact remains that defendant No.1 was in possession of 56 R. land only in Gat No. 4 and the plaintiffs are claiming injunction in respect of the suit lands total adm. 66 R. i.e. excess 10 R. land. Learned counsel of the appellant would submit that learned trial court failed to take into consideration this vital aspect and wrongly came to the conclusion that plaintiffs are having prima facie case.

10. On the other hand learned counsel of the respondent Nos. 1 & 2 supported judgment of learned trial court. He argued that the disputes are going on before consolidation office in respect of wrong entries of the land holders in Gat Nos. 3 to 7. Learned counsel of the respondent Nos. 1 & 2 argued that though there is mention of Gat No.3 instead of Gat No.4 in the sale deeds of plaintiffs, the boundaries mentioned in the sale deeds are correct and so plaintiffs are owners in possession of the suit lands within the boundaries shown.

Learned counsel of the respondent Nos.1 and 2 clarified the position as to how the defendant No.1 was owner of 0 H. 25 R. land after selling 0 H. 41 R. land to plaintiff No.1. He invited my attention towards memorandum of partition between defendant No.1 and his brothers wherein the defendant No.1 was given 0 H. 13 R. by brother Siddheshwar Chounde and so defendant No.1 was owner of total 0 H. 12 R. + 0 H. 13 R. = 0 H. 25 R. land when it was sold out to the plaintiff No.2 in the year 2019.

11. After having heard both the sides, after going through the order of learned trial court and after going through the material placed on record, the following points arise for my determination. I have given findings thereon for the reasons stated thereunder:

Sr	Points	Findings
1)	Whether the plaintiffs prove that they have prima facie case in their favour ?	Yes.
2)	Whether balance of convenience lies in favour of plaintiffs ?	Yes.
3)	Whether plaintiffs would sustain irreparable loss in case of rejection of application ?	Yes.
4)	Whether there is scope for an interference in the impugned order passed on (Exh.5) in RCS No. 470/2023 dated 13/08/2024?	No.
5)	What order ?	This appeal is dismissed.

REASONS**As to Point Nos.1 to 3 :-**

12. The main grievance of defendant No.2 is that, in the sale deed executed by defendant No.1 in favour of plaintiff No.1 in the year 2018, defendant No.1 is shown owner of total land 0 H. 53 R. and out of that land 0 H. 41 R. land was sold to plaintiff No.1 in the year 2018. After selling of 0 H. 41 R. out of 0 H. 53 R. the defendant No.1 remained owner in possession of only 0 H. 12 R. land and then how in the year 2019 defendant No.1 could sell out 0 H. 25 R. to plaintiff No.2. The memorandum of partition deed between defendant No.1 and his brothers is filed on record. It can be seen from the memorandum of partition deed that some of the lands between brother were exchanged. In that partition the defendant No.1 was given 0 H. 13 R. land by his brother Siddheshwar Chounde. It has been clearly mentioned in the memorandum of partition that, defendant No.1 was having 0 H. 12 R. with him and after getting additional 0 H. 13 R. land he is owner of total 0 H. 25 R. land. So it is clear that at the time of sale deed in favour of plaintiff No.2 in the year 2019, defendant No.1 was owner of 0 H. 25 R. land. So prima facie it appears that both the plaintiffs are owners in possession of total 0 H. 41 R. + 0 H. 25 R. = total 0 H. 66 R. So I do not find any force in the contention of the appellant that plaintiffs are seeking injunction in respect of excessive land.

13. The second main grievance of appellant is that in the measurement carried out by TILR on 13.06.2012 defendant No.1 was found to be in possession of 56 R. in Gat No.4. Learned counsel of the appellant argued that even though it is presumed that in the sale deed of plaintiffs Gat No.3 is mistakenly mentioned instead of Gat No.4, even in Gat No.4 defendant No.1 was in possession of 56 R. land, then how the plaintiffs can claim to be owners in possession of total 66 R. land i.e. excess 10 R. land in Gat No.4. Astonishingly, in the same measurement plaintiff No.1 and plaintiff No.2 are shown to be in possession of 0 H. 41 R. and 0 H. 25 R. in Gat No.3. It is to be noted that alleged measurement was carried in the year 2012. The plaintiffs purchased the land 0 H. 41 R. and 0 H. 25 R. in the year 2018 and 2019 respectively. Then how they were shown in possession of these lands in the year 2012. So I am in agreement with the learned counsel of respondent Nos.1 and 2 that at this stage reliance can not be placed on this document.

14. In the sale deed of defendant No.2 of the year 2021 the land of plaintiff No.1 is shown towards eastern side. In the sale deed of plaintiff No.2 in the year 2019 at the western side, land of defendant No.2 Bharat Chounde is shown. Which is this land of Bharat Chounde is interesting aspect. In fact, when the sale deed by defendant No.1 was executed in favour of plaintiff No.1 in the year 2018, in 7/12 extract of Gat No.3 name of Bharat Chounde (defendant No.2) was not there. The memorandum of partition

was effected between defendant No.1, defendant No.2 and other two brothers on 17.01.2019. In that partition, defendant No.2 Bharat Chounde was given 40 R. land in Gat No. 3 by brother Siddheshwar Chounde and his name was recorded in Gat No.3 for 40 R. land which can be seen in the 7/12 extract appended with the sale deed of plaintiff No.2 dated 07.06.2019. So it is clear that in the sale deed of plaintiff No.2 land of Bharat Chounde, which was allotted to him in partition by his brother Siddheshwar, was at the western side of the land of the plaintiff No.2. If the boundaries of suit lands are seen, at the eastern side of plaintiff No.2's land i.e. suit land-B, there is land of plaintiff No.1 i.e. suit land-A and towards western side of plaintiff No.2's land suit land-B, there is land of Bharat Chounde which was allotted to him in partition. As such it can be seen that suit land A & B are adjacent to each other. But in the sale deed of defendant No.2 in the year 2021, the land of plaintiff No.1 i.e. suit land-A is shown towards eastern side. I have already discussed above that at the most the land of the plaintiff No.2 i.e. suit land -B can be at the eastern side of the land of defendant No.2, that too which was allotted to him in partition by brother Siddheshwar. Then it is not understandable as to how in the sale deed of 2021 in favour of defendant No.2, the land of plaintiff No.1 is shown at eastern side. So there appears reasonable doubt at this stage about the exact location of the land of defendant No.2 which is subject of the sale deed of 2021.

15. As far as suit lands are concerned, plaintiffs appear to be in possession over total 0 H. 66 R. within the boundaries shown. No doubt, there is confusion of the exact Gat number. But it is on record that disputes about the area and Gat number are pending before consolidation office. So there is reason to believe that there must be some errors in areas or Gat number of the land holders in Gat Nos.3 to 7. In such situation, this aspect can only be decided at the final stage of the suit after leading evidence from both the sides. The affidavits of Arjun Kishan Lomte and Raosaheb Nivrutti Lomte are filed on record, whose lands are towards northern side adjacent to the suit lands of plaintiffs. They have stated in the affidavit that plaintiffs are in possession over 0 H. 66 R. at southern side. So, from overall material on record it appears prima facie that plaintiffs are in possession over suit land-A and B within the boundaries shown. Hence I hold that plaintiffs have prima facie case. As plaintiffs have prima facie case, balance of convenience would lie in their favour. If plaintiffs are dispossessed from the suit land, irreparable loss would be caused to them. Hence, I have recorded positive findings on point Nos.1 to 3.

As to point No. 4:-

16. The learned trial court has correctly appreciated the material on record and came to the conclusion that the plaintiffs appear to be in possession over the suit land A & B within the boundaries shown. Hence, I see no scope for an interference in the order of learned trial court. Accordingly, I have recorded negative finding on point No.4.

As to point No. 5:-

17. In view of the findings on point Nos.1 to 4, I hold that plaintiffs are entitled for temporary injunction and learned trial court has correctly allowed the application of plaintiffs. I see no merit in this appeal. It deserves to be dismissed. Accordingly, following order.

:: ORDER ::

1. The appeal is dismissed with costs.
2. The order passed by learned 4th Jt. Civil Judge, J.D., Latur in RCS No.470/2023 on temporary injunction application (Exh.5) dated 13.08.2024 is hereby confirmed.
3. Inform the learned trial Court.

Date: 13/03/2026

[Vidyadhar S. More]
Adhoc District Judge-1, Latur.

"CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER".

(L.S. Panhale)
Stenographer (Grade-1)
NAME OF STENOGRAPHER

Name of the Judge (With Court Room No.) :	Shri Vidyadhar S. More, Adhoc District Judge-1, Latur.
Date for pronouncement of Judgment/Order:	13.03.2026
Judgment/Order signed by PO. on:	27.03.2026