

**ORDER BELOW EXH 5 IN REG. CIVIL SUIT NO.68 of 2020**

1. By this application, plaintiff prays for temporary injunction restraining defendants from disturbing her possession over suit property.

2. It is contention of Plaintiff that she is owner and possessor of the 3 acer land bearing Gat No.143 in the vicinity of village Koshtagaon, Tal-Renapur, Dist-Latur. Previously the said land was bearing Survey No.21/A and thereafter it converted into Gat no.143. The said land came to her vide Gift deed dated 17/04/1978. It is mutated on her name vide Mutation entry no.581. The northern side portion of said land was fallow. The defendants are adjacent land holder to the suit property towards southern side bearing Gat No.142.

3. It is also contention of plaintiff that, she and father of defendant no.1 jointly purchased 4 acre 1 R land out of Survey No.21/A on 12/06/1981. Accordingly, its Mutation entry No.695 also sanctioned. So the land by gift deed admeasuring 3 acre and by sale deed admeasuring 2 acre, plaintiff is having 5 acre land in Gat No.143.

4. In May 2020, the plaintiff started to plow the northern side fallow land. At that time defendants denied the title and possession of the plaintiff over suit property. So, the plaintiff filed the suit for declaration and injunction. Further by this application the plaintiff prayed to grant interim injunction in favour of her and restrain defendants from obstructing her possession.

5. On the other hand, defendants filed their written statement

vide Exh.21 and denied the case of plaintiff. Whereas they admitted that previously the said land was bearing Survey No.21/A and thereafter it converted into Gat no.143. They also admitted that the suit property bears Gat No.143. But they denied that the suit property went in possession of plaintiff vide any Gift deed. They also denied the four boundaries of the suit property. According to them, they have purchased the 81R land out of Survey No.21/1 on 18/10/1995 from Vaijanath Prabhu Munde vide Sale deed no.2845/1995. Thereafter, the Survey No.21/1 converted into Gat No.143. Since then, the said land is in possession of defendants. But the plaintiff by meeting hands with revenue authority not allowed taking mutation entries of the said land. Further, by taking the disadvantage of mutation entries on name of plaintiff, she is obstructing theirs possession over suit property. They also denied that plaintiff and father of defendant no.1 were jointly purchased 4 acre 1 R land out of Survey No.21/A on 12/06/1981 and accordingly its Mutation entry no.695 was sanctioned. Hence, they prayed to reject the application.

6. I perused the plaint, application and say of defendants. I also gone through the documents on record and heard learned Advocates for both side. Following points arise for my determination and my findings thereon are as under.

**Points For Determination**

<b><u>Sr. No.</u></b>	<b><u>Points</u></b>	<b><u>Findings</u></b>
1.	Does plaintiff prove that she has prima-facia case ?	Yes.
2.	Does plaintiff prove that the balance of convenience is in her favor ?	Yes.

3.	Does plaintiff prove that she would suffer irreparable loss in case injunction is refused ?	Yes.
4.	What order?	As per final order .

**R E A S O N S**

**As to Point no.1 to 4**

7. To support the case learned advocate for plaintiff argued that as per pleadings in plaint, the plaintiff has produced on record the copy of Gift deed and mutation entries. The said Gift deed and mutation entries shows that how the suit property comes to the plaintiff. As per produced documents the title of plaintiff is clear and undisputed. Further, according to him to taste the fruits of suit property it is necessary to restrain the defendants from disturbing the title and possession of the plaintiff.

8. On the other hand, learned advocate for defendants argued that the defendants have purchased 81 R land out of Survey No.21/1 on 18/10/1995 from Vaijanath Prabhu Munde vide Sale deed No.2845/1995. Thereafter, the Survey No.21/1 converted into Gat No.143. Since then, the said land is in possession of defendants. But plaintiff meeting hands with revenue authorities does not allow taking mutation entries as per sale deed and denying theirs title. So, the injunction order against him will cause him an irreparable loss. Hence, he prayed to reject the application.

9. As going through the copy of Gift deed dated 17/04/1978, it appears that the 3 acre land out of Survey No.21/A has been gifted to the plaintiff by Gunwant Shivaram Munde. As going through the Mutation entry No.695, it also appears that plaintiff and one Vaijanath Prabhu

Munde purchased jointly 4 acre 1 R land out of Survey No.21/A from Dhondiram Bhimrao Lahane on 30/08/1981. As per case of plaintiff, she got her 2 acre share in said joint purchased land. So, she is having 5 acre land in Gat no.143. It is admitted fact that the Survey No.21/A afterward converted in to Gat no.143. Further, the 7/12 extract of Gat.No.143 shows that there are 2 H 4 R land is mutated on the name of plaintiff. All these documents prima facia shows that plaintiff is having 5 acre 4 Guntha land in Gat no.143 situated at village Koshtagaon.

10. On the other hand, the defendant for showing their possession over suit property produced on record the copy of sale deed. As per contents of sale deed defendant no.2 has purchased the 81 R land from Vaijanath Prabhu Munde on 18/10/1995 out of Survey No.21/1. But it is fact that as per sale deed the mutation entry is not sanction yet. It is contention of defendants that the plaintiff meeting hands with revenue authority does not allow sanctioning the mutation entry. But, defendants does not file on record any document to show that they have taken any effort to mutate their name as per sale deed. Learned advocate for defendants argued that as per section 154 of the Land Revenue Code, it is responsibility of revenue authorities to take the mutation entries as per sale deed. But, on failure of said revenue authority and within huge period of 25 years since 1995 till today, the defendant did not take any effort to get their name mutated is goes against their favour. It is also fact that to prove possession over suit property, the defendants could file on record any receipts of land revenue or any other receipts of crop insurance or benefits received from Governments etc. But, the defendants have not filed any such documents to prove their possession over suit

property. This fact also goes against their favour.

11. Further it is admitted fact that the Survey No.21/A after scheme of consolidation converted into Gat no.143. According to defendant as per sale deed dated 18/10/1995, they are having 81 R land into the Gat No.143. But as per sale deed, defendant no.2 has purchased 81R land out of Survey no.21/1. So, it is question that whether Survey No.21/A and 21/1 are different or same. There is nothing on record to clear the said ambiguity. So, again this fact goes against the favour of defendants.

12. Further, it is case of plaintiff that to the northern side of suit property there is adjacent land property of defendants bearing Gat. No.142. This fact is admitted by the defendants. But according to defendants, there is 81 R land of them beside to their landed property in Gat no.142 towards northern side. But there is nothing on record to support this fact except the sale deed out of survey no.21/1.

13. So, considering all these facts, I am at the opinion that plaintiff succeeded to prove her prima facia case that she is owner and possessor of the suit property. As there is nothing on record to show prima facia possession of defendants on suit property, the balance of convenience also goes in the favour of plaintiff. As defendants are denying the title and possession of the plaintiff over the suit property, this act itself prima facia shows that defendants are obstructing the peaceful possession of plaintiff over the suit property. So, not granting the interim injunction will cause irreparable loss to the plaintiff. So, I give the answer in positive

to the Point No.1 to 3. As giving answer to the Point No.4, I proceed to pass following order.

**ORDER**

1. This Application (Exh. 5) is allowed.
2. Defendants no. 1 and 2 either themselves or through anybody else, are restrained from obstructing plaintiff's possession over suit property during pendency of suit.
3. The application stands disposed of accordingly.

Sd/-

Place : Renapur.  
Date : 21/09/2020.

**(S. D. Yadav)**  
Jt.Civil Judge J.D.& J.M.F.C.

“I affirm that the contents of this P.D.F. File judgment are same word for word as per original judgment.”

Name of Steno : Smt. Bansode M.B.

Court Name : S. D. Yadav, Civil Judge J.D. Renapur.

Date of Judgment : 21/09/2020

Date signed by P.O : 21/09/2020

Judgment uploaded on : 21/09/2020