

Judgment...

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RCS No.424/2022

MHLA130012412022



Received on : 21/10/2022
Registered on : 21/10/2022
Decided on : 11/04/2026
Duration : 3 Yrs 5 M. 21 Days

IN THE COURT OF CIVIL JUDGE JUNIOR DIVISION, RENAPUR

DIST. LATUR

(Presided over by P.A.Apte)

REGULAR CIVIL SUIT NO. 424 / 2022

Exh.No.35

1. Faruq Nasir Shaikh }
Age-35 yrs., Occu.-Agriculture } **PLAINTIFF**
R/o. Indarthana Tal. Renapur Dist.Latur }

Versus

1. Gramsevak Grampanchyat Indarthana }
S.N.Ugile }
Age-32 yrs., Occu.-Service }
2. Sarpanch Grampanchyat Indarthana } **DEFENDANTS**
Avinash Satish Randive, }
Age-38 yrs., Occu.-Sarpanch & Business }
3. Upsarpanch Grampanchayat Indarthana }
Ibrahim Khairat Sayyad, }
Age-40 yrs., Occu.-Agri & Upsarpanch }
All R/o Indarthana Tq.Renapur, Dist. Latur }

Appearance :
Plaintiffs : Adv.P.M. Adude,
Defendant No.1 to 3 : Ex-parte

JUDGMENT

(Delivered on 11/04/ 2026)

1) Plaintiff has filed this suit for perpetual injunction.

Brief facts of the case is as under :-

2) The plaintiff is resident of village Indarthana, Tq. Renapur Dist. Latur, the defendant No. 1 is Gramsevak, defendant No.2 is Sarpanch and defendant No.3 is Upsarpanch of Grampancyat Indarthana. The plaintiff is owner and possessor of the property bearing G.P. House No.310, Adm. South-North 28 ft. and East-west 35 ft situated at village Indarthana Tq. Renapur. However, the plaintiff constructed over some portion and kept open some portion from western side of his house.

Bounded as –

East - Agricultural Land of Sayyed Latif.

West - Open space and Pvt. Road.

South- House of Shaikh Nasir.

North- House of Chand Shaikh.

(Hereinafter referred as “suit property”).

03) That the plaintiff and his family members are residing in the suit property since last more than 12 years. Plaintiff's name is duly recorded in the Gram Panchayat Record. Plaintiff is paying tax regularly. Plaintiff has obtained Electricity Connection in the suit property. One Sayyed Begambee and Shaukat Latif are the neighbours of plaintiff's father's house No.309. They are the close relatives of the Sarpanch and UpSarpanch of the village. They instigated the Sarpanch and UpSarpanch. On their instigation the sarpanch issued notice to the plaintiff on 03-10-2022 and 18-10-2022 and thereby directed him to remove alleged encroachment over road. The plaintiff has never encroached over the road. In fact, no road is in existence there at the site of suit property. It is further contended that, plaintiff is in peaceful possession of the property since long. The defendants have no right to issue such notice. Hence, the plaintiff has filed this suit for the relief of perpetual injunction. It is further contended that as the plaintiff is in the possession of the suit property since more than 12 years and the very act of defendants of issuing notice is illegal, the plaintiff is having right to challenge the very legality of the said act of defendants. Therefore, defendants be restrained from causing any obstruction to peaceful possession of plaintiff over suit property, therefore, this suit has been filed for perpetual injunction.

04) Defendant no.1 has appeared but he has failed to file his written statement, therefore, suit proceeded against him without written statement. After the due service the defendant No.2 and 3 did not appear. Hence, the suit is proceeded ex-parte against defendant No. 2 and 3. After an amendment application at Exh.20. newly elected Gramsevak, Sarpanch & Upsarpanch were made party to the suit as defendant no. 1 to 3 instead of old defendant no.1 to 3. They are duly served with the summons but they failed to appear hence suit was proceeded Ex-parte against them by order below Exh.1.

05) Heard Ld. Adv.P.M. Adude for plaintiff. As matter was proceeded Ex-parte against defendant no. 1 to 3 hence matter was proceeded without their evidence and argument.

06) Considering evidence and documents filed on record, following points arise for determination. Findings recorded thereon with reasons are given below :-

Sr.No.	POINTS	FINDINGS
1	Does the plaintiff prove that he is owner and possessor of suit property ?	In Affirmative :
2	Does the plaintiff prove that defendants are causing obstruction to peaceful possession of plaintiff over suit property?	In Affirmative :

- 3 Whether plaintiff is entitled for perpetual injunction as prayed? In : Affirmative
- 4 What order and decree? : As per final order

REASONS

07) Plaintiff in support of his claim has examined himself by filing affidavit in lieu of examination in chief at Exh.23. and PW2 Rahim Basha Sayyad at Exh.24.

Plaintiff has relied on following documents.

Sr.	Particulars	Exh.No.
1	Copy of Notice Dt.03.10.2022 issued by Grampanchayat Office	25
2	Copy of Notice Dt.17.10.2022 issued by Grampanchayat Office	26
3	8-A extract of G.P.H.No.310 of Village Indarthana	27
4	Tax receipt of G.P H.No. 310 for the year 2022-23	28

Plaintiff has filed evidence close pursis at Exh.29.

AS TO POINTS NO. 1 to 3 :-

08) These points are interconnected with each other, therefore, to avoid repetition of facts in discussion, they are being discussed together.

According to plaintiff, he is owner and possessor of the suit property. He has constructed house therein over some portion and kept open some portion from western side of his house. He

has taken electricity connection and residing therein along with his family, since last more than 12 years. The defendants have issued notice to the plaintiff, this fact itself shows that, the plaintiff is in the possession over the suit property. Nothing on record reveals that, the suit property is un-authorized. The plaintiff claims to have been in the possession over the suit property since 12 years. As such the defendants should have place on record some sort of document to show that, since when the plaintiff has encroached over the suit property.

09) The plaintiff in order to support his contention has examined himself by filing affidavit in lieu of examination in chief at Exh.23. and reiterated the same facts as in plaint. Further plaintiff has examined PW2 at Exh.23. As the suit was proceeded ex-parte against defendants, matter was proceeded without cross examination of plaintiff witness by them. Plaintiff has produced on record tax receipt of GP H.No.310, 8-A extract of GP H.No.310, notices issued by defendants at dt.03.10.2022 & 17.10.2022. All these documents are not challenged by the defendants and shows the possession of the plaintiff over the suit property. Defendants have not appeared in the presence suit. Nothing is brought on record to show that plaintiff has caused encroachment. If perused notices issued by the defendants at Exh.25 & 26 the Grampanchayat Indarthana has issued notice to plaintiff through defendant no.1 & 2 to remove encroachment adm 15x80 near house number 310. Defendants failed to appear and brought on

record documents to show encroachment at the hands of plaintiff but after perusing contentions in documents at Exh.25 & 26 there is probability that defendants will cause obstruction to the plaintiff's possession. As already discussed above, the possession of the plaintiff over the suit property is proved as remained unchallenged. Therefore, it needs to be protected. The contention of the plaintiff as to obstruction at the hands of defendants remained unchallenged. Therefore, plaintiff is entitled to relief of perpetual injunction as prayed. Hence, considering above discussion, I answer issues no. 1 to 3 in Affirmative and to point no.4 I proceed to pass the following order :-

ORDER

- 1} Suit is decreed with cost.

- 2} Defendants themselves or through any other person, agent on their behalf are hereby perpetually restrained from causing any obstruction to peaceful possession of plaintiff and any type of interference over suit property.

- 3} Decree shall be drawn up accordingly.

Date : 11/ 04 /2026
Renapur

(P.A.Apte)
Civil Judge Junior Division,
Renapur