

MHLA140031172025



Order Below Exh No.05 in

R.C.S. No. 762/2025

(Utkarsha Sanjiv Bhalke

Vs

Shivprasad Waman Kure)

Plaintiff has filed the present application for a temporary injunction to restrain the defendants from obstructing her possession over the suit property under Order XXXIX, Rule 1 and 2 of the Code of Civil Procedure.

The case of plaintiff is as under :

2. It is a case of the plaintiff that defendant No. 1 is her friend. Defendant No.1 and 5 are husband and wife whereas defendant No.1 to 4 are siblings. She further contended that defendant No.1 owed her money. Hence, he executed sale deed in respect of suit property on 08.07.2025 in discharge of debt. However, on 19.08.2025, defendants brought into existence disputed sale deed without consideration by playing fraud on her. Defendant No.1 executed promissory note in her favour and agreed to pay sale consideration by 26.08.2025. But, she did not receive any money. However, the suit property is in her possession. Moreover, defendants are trying to mutate their names to revenue record. Hence, she filed objection by appearing before Circle Officer Ujani, Tal- Ausa. She further pleaded that defendants are trying disturb her possession over suit property. Hence, she has constrained to institute the present suit. Therefore, the plaintiff prayed for the temporary injunction.

3. The defendant No. 1 to 5 have filed their written statement at Ex. No. 36 and resisted the claim of plaintiff. According to them, after demise of their father the oral partition of S. No. 122 and 123 had taken place between them. Accordingly, northern side 1 H. 18 R out of S. No. 122 was given to the share of defendant No. 1. They came to know that defendant No.1 executed the registered sale deed in respect of suit property in favour of plaintiff without possession and consideration . Hence, they approached the plaintiff and requested her to executed the sale deed in respect of suit property in favour of defendant No.2 by accepting the consideration amount of Rs. 4,30,000/-. Defendant No.1 also agreed to sold out his remaining share of 45 R to the defendant No.2. Accordingly, the plaintiff and defendant No.1 executed the sale deed bearing No. 4012/2025 in favour of defendant No.2. Consequently, he put in the possession of purchased land measuring 1 H. 18 R out of S.No. 122. Thereafter, the mutation entry No. 3726 was certified in his favour. Hence, the plaintiff has no any concern with the suit property. With an intention to harass them she has filed present suit. Finally, they prayed to reject the present application with costs.

4. Perused application, record, and say. Heard learned advocate for the both parties.

5. The following are points for determination along-with my findings thereon for the reason to follow:

Sr. No.	Points for Determination	Findings
1.	Whether the plaintiff has a prima-facie case?	No.

2.	Whether the balance of convenience lie in favour of the plaintiff?	No.
3.	Whether the plaintiff would suffer irreparable loss if the application of temporary injunction is refused?	No.
4.	What order?	As per final order.

REASONS

6. The plaintiff has produced documents in support of her case vide Exh.No.04 i.e. 7/12 extract of survey No.122, mutation entry No. 3669, agreement to sale dated 10.03.2025, notice dated 03.06.2025, postal receipts, application dated 11.10.2025, public notice dated 17.06.2025, sale deed dated 07.07.2025, applications dated 28.08.2025, mutation entry No. 3704, notice dated 16.09.2025, postal receipts, consignment tracking report, notices dated 27.09.2025 and, postal receipts track consignment report. The plaintiff has also filed on record promissory note dated 19.08.2025, mutation entry No. 3726, application dated 09.10.2025 and the affidavit of Maya Sanjay Gaikwad at the Ex. No. 41. Defendants have also filed on record supporting affidavit of Seema Mahavir Shinde at the Ex. No. 39 and Vinayak Kamlakar Khirsagar at the Ex. No. 40.

7. At present the plaintiff has filed the application for the temporary injunction to restrain defendants from obstructing her possession over the suit property. According to plaintiff the defendant brought into existence the sale deed bearing No. 5012/2025 by playing fraud on her. She further claimed that the alleged sale deed has been executed without consideration and possession. To prove possession

she has filed on the record promissory note dated 19.08.2025. On the contrary defendants pleaded that the possession of the suit property is handed over to defendant No.2 on 19.08.2025. Accordingly mutation entry No. 3726 was effected in favour of defendant No.2. On the perusal of mutation entry No. 3726 dated 03.10.2025, it can be seen that objection was called before sanctioning the mutation in respect of suit property. I have gone through the promissory note dated 19.08.2025, which shows that it has been executed by Shivprasad Waman Kure i.e. defendant No.1 in favour of plaintiff, wherein he agreed to pay the alleged consideration amount of Rs. 21,00,000/- to the plaintiff by 26.08.2025. It further contended that, said promissory will be binding on defendant No.1 and his siblings. The said promissory note further indicates that the disputed sale would be made without consideration and seller retain the possession until the repayment of consideration. The defendant No. 1 also stated that plaintiff will be handed over the possession of the suit property upon receipt of said consideration and until then they will not obstruct her possession.

8. On the other hand, disputed sale deed is filed vide Ex No. 4/11. On the perusal of sale deed, it transpire that the plaintiff handed over the possession of the suit property to defendant No.2 on 19.08.2025, after receiving the consideration amount. Admittedly, the recent 7/12 extract of suit property is not filed on the record. It is settled position of law, that registered sale deed holds the higher evidentiary value regarding title and possession of the property compared to the promissory note. The said sale deed prima facie confirms the transfer of ownership which is essential for proving the possession. Therefore, considering the disputed sale deed it can be

prima facie inferred that the defendant No.2 is in the possession of the suit property. In result the plaintiff has failed to prove her possession over the suit property. So as plaintiff prima facie failed to prove her prove possession over the suit property then no question of obstruction at the hands of defendant would be arise. In result rejection of application would not cause any irreparable loss to the plaintiff. Hence, I answer the point no's. 1 to 3 in the negative and record my findings accordingly. In order to answer point No.4, I pass following order:

ORDER

1.	The application is rejected.
2.	Cost in cause.

Date: 08.05.2026
Ausa

(Shunhangi H. Nalawade)
3rd Jt. C. J. J. D, Ausa