

MHLA150011762025

**ORDER BELOW Exh. 05**

This is an application by plaintiff under **Order XXXIX Rule 1 of The Code of Civil Procedure, 1908** (hereinafter referred as "CPC") for the grant relief of temporary injunction restraining defendant from causing obstruction and interfering in the peaceful possession of the plaintiff over the suit property.

Suit Property

2. Subject matter of this suit is the land property bearing Gut no. 8, ad-measuring 04 H 52 R, situated within limits of Hatkarwadi, Taluka Chakur. It is stated that plaintiffs are tenants in the portion of Gat o. 23 and 8 towards the northern side half portion.
(here-in-after referred as "suit property")

Plaintiffs Case In Concise

3. As per plaintiffs, plaintiff no. 1 is mother of plaintiff no. 2. Husband of plaintiff no.1 died on 28/03/1994. Defendant no. 1 to 3 are real brothers. Defendant no. 4 to 6 are sons of defendant no. 1. The defendant no. 7 is wife of defendant no. 1. Defendant no. 9 is wife of defendant no. 4 and defendant no. 10 is wife of defendant no. 2. Defendant no. 8 widow of Son of Reva by name Ramdas. All defendants resided jointly with Reva and Sitamram.

4. It is further stated that, father of plaintiff no. 3 and 4, namely Megha Pawar was protected tenant over land in S. no. 31 adm

9H 5 R and S. no. 4 adm 5 H 33 R situated at Village Hatkarwadi, Chakur. The land owners of the above land are threatening to take possession of the above land, so Megha Pawar took aid of Khuba Pawar who was grand father of defendant no. 1. The Revenue authorities certified entry of Megha Pawar along with Khuba Pawar on revenue documents of the above land.

5. It is further stated that, revenue authorities sanctioned 7/B entry on 24/12/1983 in the name of Kishan, Megha and Dhanu to the extent of half lands in S. no. 31 and Sno. 4. And remaining land in the name of Reva and Sitaram. The northern portion is in the possession of Kishan and Dhanu and Southern portion is in the possession of Reva and Sitaram. This Reva and Sitaram were interfering the possession of deceased Kishan who is husband of the plaintiff no.1 . So, they filed RCS no. 158/1986 and it was decreed in their favour. Reva and Sitaram filed appeal against that judgment but both appeals were dismissed by appellate courts.

6. It is the case of the plaintiff that, during pendency of above matters, consolidation scheme was implemented and S. no. 31 was given Gat no. 23 area 4 H 33 R and S. no. 4 was given Gat no. 8 are 9 H 5R. in mean time father of the plaintiff died. The revenue authorities without any cause discontinued the entries of plaintiff from 7/12 extract of the suit property. But plaintiffs are in actual possession of he suit property. Being protected tenants, it is necessary to protect possession of the tenants in the suit property from defendants.

7. It is further stated that, original owner of the suit property asked to plaintiffs that if they were ready to surrender their rights as tenants they will be given land in another gat number. Believing on owner plaintiffs had filed application before Tahsildar for surrender of their tenancy rights. But original owner had not given any land to plaintiffs as promised. So plaintiff never given possession of the suit property to original owners. After some time, defendants filed objection against surrender proceedings and the same was rejected by Tahsildar and directed as per letter surrender proceedings may be initiated.

8. It is further stated that, objection petitioner filed appeal against order of Tahsildar which were rejected by appellate authorities. As surrender application was not been decided as per Sec 19 Hyderabad Tenancy and Agricultural Lands Act, 1950 (in short Tenancy Act). But revenue authorities deleted names of tenant from other rights column in 7/12 extracts of the suit property on 19/05/2006. Plaintiffs had filed application under Sec 258 of Maharashtra Land Revenue Code for cancellation of order of Tahsildar. The defendant taking undue advantage of pendency of that application and interfering possession of plaintiffs on the suit property.

9. It is further stated that, plaintiffs filed application before Chakur police station on 26/02/2024 and matter was settled. But again on 12/07/2025 defendants intentionally interfered into cultivation of crops by the plaintiff in the suit property. When plaintiffs requested defendant for not causing obstruction but the defendant did not listen and continued to disturb possession of the plaintiff. Hence,

the plaintiff has filed suit for declaration and permanent injunction against defendants. By way of present application, it is prayed that till the decision of this suit, defendants may be restrained from causing obstruction and interfering in the peaceful possession of the plaintiff over the suit property.

Defendant's Case In Concise

10. The defendant appeared and filed his say at Exh. 16. They have denied claim of the plaintiffs. It is contended that, the plaintiff has failed to mention boundaries of the suit property in the plaint. Plaintiffs have surrendered their tenancy rights in the suit property in the year 2003. Even today names of defendants recorded as protected tenants in the other rights column of the 7/12 extracts of the suit property. Present defendants are in actual possession of the suit property. Plaintiffs were never in the possession of the suit property. Present defendant has not interfered into possession of the plaintiff in suit property. Hence, he prayed for rejection of this application with costs.

Points For Determination and Findings

11. Perused the plaint, written statement, documents placed on record by both parties and the affidavits. Considering the matter before this Court, following points arise for my determination. I have recorded findings on each of them, for reasons as discussed below.

Sr. no.	Points for determination	Findings
1.	Whether plaintiff has <i>prima-facie</i> case?	No
2.	Whether plaintiff will suffer irreparable loss, in case of refusal of injunction?	No

3.	Whether balance of convenience is in favor of plaintiff?	No
4.	What order?	Application Rejected as per final order.

Material for Consideration

12. Plaintiffs in order to substantiate their claim have relied upon application before police station dated 14/07/2025 at Exh. 4/1, application before tahsildar dated 16/05/2024 Exh. 4/2, receipt by SP office Exh. 4/3, application for revision petition, copy of order of tahsildar chkaur, copy of mutation entry, copy of TI order, copy of compromise in RCS. 72/2, copy of judgment in MCA no. 17/5, copy of writ petition, copies of 7/12 extracts of Surveny no. 31, 23, 8, 8, 31 at Exh. 4/19 to 4/23 respectively.

13. Defendants have relied on rojnama of proceedings before Tahsildar Exh. 33/1, application for surrender of tenancy rights by plaintiffs at Exh. 33/2, copy of application for surrender of tenancy rights by main owner Exh. 33/3, copy of order of tahsildar on application for surrender at Exh. 33/4, 9/3 9/4 extract of the suit property at Exh. 33/8, 7/12 extracts of the sit property at Exh. 33/6.

REASONS

As To Point no.01 to 3

14. As the three points are interlinked with each other to avoid repetition I am discussing together. To adjudge as to whether there exists *prima facie* case in favor of plaintiff, regard must be had to the

settled preposition of law which says that, *prima facie* case means the case where the Court is satisfied that, there is a serious question to be tried at hearing and on the basis of the material placed on record. At the initial stage, the Court cannot insist upon a full proof case warranting an eventual decree. If a fair question is raised for determination, it should be taken that a *prima facie* case is established. The real thing to be seen is that the plaintiff's claim is not frivolous or vexatious. On this touch stone, let's see whether there exists *prima facie* case in favor of plaintiff or not.

15. At the outset it is very important to mention that, defendant has denied possession of the plaintiff over the suit property. In order to show *prima facie* possession of suit property, learned advocate for plaintiffs argued that, plaintiffs are protected tenants. Under influence of main original owner, they filed application for surrender of tenancy rights but never delivered possession of the suit property to main owner of the suit property. Learned advocate for defendant argued that, plaintiffs are not in possession of the suit property. Both parties filed affidavits of adjacent owner to show that, they have possession in the suit property.

16. **Order XXXIX Rule 01 of CPC** provides that, what the Court is supposed to consider is the affidavit or otherwise material. Here both the parties have filed affidavits in support of their pleadings and therefore here a situation where oath is standing against oath. Hence, it will not be appropriate to accept one oath at the cost of discarding another oath. Therefore, instead of relying on the affidavits, it will be

appropriate to see the other material placed on record, in order to resolve the controversy.

17. learned advocate for defendant argued that, the plaintiff failed to give boundaries of the suit property. Hence, his application to protect his possession cannot be maintainable. On perusal of plaint it is on record that, plaint never disclosed boundaries of the suit property. It is only mentioned by plaintiff that, *It is stated that plaintiffs are tenants in the portion of Gat o. 23 and 8 towards the northern side half portion.*

18. Here provisions of Order VII Rule 3 of the CPC need to be referred. It is as under -

3. Where the subject-matter of the suit is immovable property -

Where the subject-matter of the suit is immovable property, the plaint shall contain a description of the property sufficient to identify it, and, in case such property can be identified by boundaries or numbers in a record of settlement or survey, the plaint shall specify such boundaries or numbers. In case of encroachment a sketch showing as approximately as possible the location and extent of encroachment shall also be filed alongwith the plaint.

19. Present suit is in respect of immovable property. Therefore, as per provisions of Order VII Rule 3 of the CPC, the plaint ought to have contained description of the disputed property sufficient to identify it. But in the present case, in the plaint and even in this application plaintiff failed to mention boundaries of the suit property. As per decision in the case of **Smt. Phoolmati Devi vs. ManikLal, 2005 (2) AWC 1823 (All) (LB)**, in view of the provisions of Order 7, rule 3 CPC and Order 20, rule 9 CPC,

injunction cannot be granted if the disputed immovable property is not identifiable.

20. Document of 7/12 extract suit properties filed by both parties shows that, name of Reva and Sita recorded in other rights column of the suit property. As per documents filed by defendants, it *prima facie* appears that, plaintiffs have surrendered their tenancy rights in the suit property. The suit property is agricultural land. These documents *prima facie* shows that, defendants are in possession of suit property.

21. On perusal all documents placed on record, at this stage plaintiffs have failed to bring on record *prima facie* evidence. Even plaintiffs failed to add original owner as necessary party in the suit. All points of dispute require complete evidence. The very essence of prayer of temporary injunction is that, property in respect to which injunction has been claimed must be identifiable. But in the present case, the plaintiff failed to show boundaries of the suit property. Therefore, there is no *prima facie* case in favour of the plaintiff.

22. To decide the aspect of balance of convenience, the Court is supposed to balance the relief that may be granted to plaintiff against the relative hardship that may be caused to defendants. Balance of convenience is the comparative mischief or inconvenience to the parties. Inconvenience to plaintiff, if temporary injunction is refused, would be balanced and compared with that to the defendant if it is granted. If the scale of inconvenience leans to the side of plaintiff, then only the interlocutory injunction can be granted. The Court must be satisfied that, the comparative mischief, hardship and inconvenience which is

likely to be caused to the plaintiff by refusing the injunction will be greater than that which is likely to be caused to the opposite party by granting it.

23. In the present case, name of defendants is appeared in the other rights column of the 7/12 extracts of the suit property. Whether there was mistake by revenue authorities in recording name of plaintiff or defendants will decide during trial on merit. Admittedly this is not the stage to ask parties to produce complete evidence. Hence, comparatively no inconvenience likely to cause to the plaintiff than that to defendants.

24. At this juncture, it would be proper to assess to whom irreparable injury might cause. Irreparable injury means such injury which cannot be adequately remedied by damages. The remedy by damages would be inadequate if the compensation ultimately payable to the plaintiff, in case of success in the suit, would not place him in a position in which he was before the injunction was refused. Here, as plaintiff failed to show *prima facie* case, hence, comparatively no loss or injury is likely to be caused to plaintiffs, if the temporary injunction is refused. Resultant, I answer point no. 1, 2 and 3 in the negative and record my finding thereon accordingly.

As To Point No.04

23. From the entire discussion supra, when the *prima facie* case is not in favour of plaintiff, when balance of convenience does not tilt in favour of plaintiff and when no irreparable loss is likely to be caused to

plaintiff, if temporary injunction is not granted, then this application for temporary injunction deserves to be rejected. There are no peculiar circumstances as such, where in spite of these three requirements supra, the Court can invoke extraordinary powers under Sec 94(e) or 151 of CPC, to grant the relief of temporary injunction. Therefore, plaintiff is not entitled to the relief of temporary injunction and this application deserves to be rejected. Cost of this application shall be the cost in cause. Hence, I answer point No. 4 as application is rejected and pass the following order ;

ORDER

- 1) Application for temporary injunction stands rejected.
- 2) Cost of this application shall be the cost in cause.

Date :- 20/06/2026

Place :- Chakur

(Divya Sarang Karbhajan)
Jt. Civil Judge Junior
Division, Chakur.

C E R T I F I C A T E

I affirm that, the contents of this P.D.F. file judgment/order are same,
word to word, as per the original judgment/order;

Name of the Stenographer : Self

Court Name : Jt. C.J.J.D. and J.M.F.C., Chakur

Date of judgment/order : 20/06/2026

Date of Judgment/Order signed by

the Presiding Officer on : 20/06/2026

Judgment/Order uploaded on : 20/06/2026