


<p>CNR NO. MHNB070009082022</p> 	<p>IN THE COURT OF CIVIL JUDGE (Jr. Dn.) DHADGAON, DISTRICT- NANDURBAR, MAHARASHTRA</p> <p>Present: B. S. Wadhai, Civil Judge (Jr. Dn.) Date: 17th April, 2026</p> <p><u>Regular Civil Suit No. : 48 of 2022</u></p>
<p>PLAINTIFFS:</p>	<p>01. <u>Shri. Kumbharya s/o Khajya Pawara,</u> Age: 65, Occ. Cultivation,</p> <p>02. <u>Smt. Jalabibai w/o Kumbharya Pawara</u> Age: 62, Occ. Cultivation,</p> <p>03. <u>Smt. Babita d/o Kumbharya Pawara</u> Age: 23, Occ. Cultivation,</p> <p>04. <u>Shri. Kusha s/o Kumbharya Pawara</u> Age: 31, Occ. Cultivation,</p> <p>05. <u>Shri. Hiralal s/o Kumbharya Pawara</u> Age: 26, Occ. Cultivation,</p> <p>06. <u>Shri. Virsing s/o Kumbharya Pawara</u> Age: 24, Occ. Cultivation,</p> <p>07. <u>Shri. Thutya s/o Kumbharya Pawara</u> Age: 21, Occ. Cultivation,</p> <p>08. <u>Ku. Sangita d/o Kumbharya Pawara</u> Age: 15, Occ. Cultivation,</p> <p>09. <u>Ku. Jyoti d/o Kumbharya Pawara</u> Age: 13, Occ. Cultivation,</p> <p>10. <u>Ku. Kalpana d/o Kumbharya Pawara</u> Age: 18, Occ. Cultivation,</p> <p>11. <u>Shri. Khajya s/o Ferangya Pawara</u> Age: 77, Occ. Cultivation,</p> <p>Plaintiff no. 8, 9, 10 being minors appeared through father plaintiff no. 1.</p> <p><u>Plaintiff no. 1, 2, 5, 6, 8, 9 & 10</u> R/o. Kanjyapani, Po. Kakarada, Tal. Dhadgaon, <u>Plaintiff no. 3, 4 & 11 R/o. Kamod, Tinasml</u> and Pipri, Tal. Dhadgaon, <u>Plaintiff no. 7 R/o. Mohida, Tal. Shahada,</u> District- Nandurbar,</p>
<p>Represented by:</p>	<p>Learned Adv. Mr. V. O. Pawara</p>
<p>DEFENDANTS:</p>	<p>01. <u>Shri. Bahadarya s/o. Kalya Pawara</u> Age: 65 Yrs., Occ. Cultivation,</p> <p>02. <u>Shri. Tersing s/o. Bahadarya Pawara</u> Age: 32 Yrs., Occ. Cultivation,</p>

	<p>03. <u>Shri. Voparya s/o. Jangalya Pawara</u> Age: 51 Yrs., Occ. Cultivation,</p> <p>04. <u>Shri. Dilip s/o. Voparya Pawara</u> Age: 34 Yrs., Occ. Cultivation,</p> <p>05. <u>Shri. Khalpa s/o. Voparya Pawara</u> Age: 32 Yrs., Occ. Cultivation and</p> <p>06. <u>Shri. Udy a s/o. Voparya Pawara</u> Age: 21 Yrs., Occ. Cultivation,</p> <p><u>Defendant no. 1 & 2</u> R/o. Sabalapani/Burinmalpada, Tal. Dhadgaon, District- Nandurbar,</p> <p><u>Defendant no. 3 to 6</u> R/o Kanjyapani, Po. Kakarada Bu., Tal. Dhadgaon/Akrani, District- Nandurbar,</p>		
Represented by:	Learned Adv. Mr. M. H. Vasave		
<u>SUIT: FOR PERPETUAL INJUNCTION</u>			
Date of Institution:	13.09.2022		
Date of Registration:	14.09.2022		
Date of Framing issues:	18.04.2023		
Date of Commencement of evidence:	02.08.2024		
Date of Closing evidence:	24.02.2026		
Date of Arguments:	15.04.2026		
Date on which judgment is reserved:	17.04.2026		
Date of the Judgment:	17.04.2026		
Duration:	Y/M/D 03/07/03		
List of Plaintiff/s' Witnesses:			
<u>Rank</u>	<u>Exh.</u>	<u>Name</u>	<u>Nature of Evidence</u>
PW1	19	Kumbharya Kkajya Pawara	Plaintiff no. 1
PW2	33	Shilidar Fadya Pawara	Villager/Adjacent holder
PW3	34	Kashiram Hunya Thakare	Villager/Adjacent holder
Plaintiff closed evidence side on 20.11.2025 vide pursis at Exh. 38			
List of Defendants' Witnesses:			
<u>Rank</u>	<u>Exh.</u>	<u>Name</u>	<u>Nature of Evidence</u>
DW1	41	Dilip Voparya Pawara	Defendant no.4 himself

Defendants closed evidence side on 24.02.2026 vide pursis at Exh. 42

List of Plaintiff's Documents:		
<u>Exhibit</u>	<u>Proved</u>	<u>Nature of Evidence</u>
P-28	PW1	Title of forest land in possession compt. No. 321
P-29	PW1	STC no. 175/1992 order on Exh. 1
List of Defendants' Documents: None		
<u>Exhibit</u>	<u>Proved</u>	<u>Nature of Evidence</u>

J U D G M E N T

(Delivered on 17st day of April 2026)

This is simpliciter suit for perpetual injunction. The suit property is agricultural land in forest compartment no. 321 admeasuring 03.25 HR., situated at Kanjyapani, Tal. Dhadgaon, District Nandurbar. Four boundaries of suit property described in para 2 of the plaint, is part and parcel of this judgment.

02. Facts in succinct of the plaintiffs' case: plaintiff no. 1 & 2 are native of village Kanjyapani and in cultivating possession of agricultural land in forest compartment no. 321 admeasuring 3.25 HR. Remaining plaintiffs are children of plaintiff no. 1 & 2. Defendant no. 1 & 2 are resided at village Burinmal, Tal. Shahada, Dist. Nandurbar and they have their own land there. Defendant no. 3 to 6 are resident of Kanjyapani. Plaintiffs do not have any relation with defendants. Plaintiff no.1's father and plaintiff no. 1 & 2 had encroached and cleared above said forest/suit land before 40-45 years ago. Accordingly, their cultivating possession over

suit land was recognized and regularized by State Govt. on 19.06.2010 under Forest Rights Rules 2008. To the Southern side of suit land, land in name of defendant no. 1 is situated. On 20.06.2022, defendant no. 1 & 2 came to defendant no. 3 to 6 at Kanjyapani and raised irrelevant dispute in respect suit land. They also threatened to dispossess plaintiffs. Again on 31.07.2022 at 11.00 a.m. defendants intruded in suit land from the Southern side and threatened plaintiffs that though defendant no. 1 & 2 reside at another village, defendant no. 3 would cultivate the land in his name and plaintiffs should relinquish suit land in their favour, otherwise he would not spare them. Therefore, plaintiffs in above circumstances, constrained to file this suit.

03. Defendants in response to suit summons filed written statement (w/s) at Exh. 14 on 02.01.2023. They denied entire claim of plaintiffs. They contended, they filed suit bearing Reg. Civil suit no. 24/2022. Thereafter, with ill intention to expel defendants this false suit is projected. It is specifically contended that false boundaries pleaded by plaintiffs. Indeed, not plaintiffs but defendants are in possession of suit land. Even trees in suit lands also belonged to defendants. Title documents of forest land in possession adduced by plaintiffs is in respect of other land and not related to suit land. It is also contended that on 10.06.2022 plaintiffs themselves tried to drive out defendants from the suit land. Therefore, proceeding before Tahsildar was prosecuted. Hence, there is no question of interference with suit land arose on

part of defendants of which they are in possession. Further, defendants also have specified four boundaries of land in possession of plaintiffs such as; to Estern- Vanya Barkya Valvi's field, to Western- Forest land, to Northern- Hutarya Sama Vasave's land and to Southern- Vanya Barkya Valvi's encroached land. It is specifically contended that vide order dated 23.02.2011, State Govt. recognized ownership of defendants over suit land. Accordingly, they are now exclusive owners and possessors of the suit property. They never obstructed or threatened plaintiffs as alleged by them in respect of the land in their possession. Plaintiffs file this false and baseless suit with ulterior motive to grab suit land in possession of defendant. Hence, this false and baseless suit is liable to be dismissed with costs.

04. Upon perusal of pleadings and documents of both sides, it is admitted fact that plaintiffs and defendants have their respective cultivating possession of agricultural land in forest compartment no. 321. However, defendants contended suit property with specific boundaries pleaded in plaint is actually the land in possession of the defendants and not the plaintiffs.

05. Heard both sides at length. Perused record of the case and material adduced by both sides. On 18.04.2023, my learned predecessor have framed issues at Exh. 18. I have reproduced the same against each of them, I have recorded my findings for the reasons discussed infra;

Sr. No.	Issues	Findings
01.	Do plaintiffs prove that they are in exclusive possession of the suit property ?	Yes.
02.	Do plaintiffs prove that defendants have obstructed their peaceful possession over suit property ?	Yes.
03.	Whether plaintiffs are entitled for the relief of perpetual injunction as prayed for ?	Yes.
04.	What order and decree ?	Suit decreed.

REASONING

06. To substantiate the claim of perpetual injunction plaintiffs have examined 3 witnesses including two villagers cum adjacent holders of suit property and plaintiff no. 1. Plaintiff no. 1 Kumbharya Pawara deposed on same line of plaint by adducing his evidence on affidavit. In cross examination he testified same four boundaries of suit land which they pleaded. Further, he testified that field of defendants is about 1 km away from his land, defendants cultivate their own land and he cultivates his own. It is also admitted that there was dispute between them in respect of land; hence, proceeding u/sec. 145, CrPC, was launched before Tahsildar and is pending.

07. Shilidar Pawara and Kashiram Hunya Pawara (PW2 & 3) are witnesses and adjacent holders. They corroborated testimony of plaintiff no. 1 and testified that suit land is in

possession of plaintiffs, and defendants are obstructing their cultivating possession to grab it unlawfully. Shildar (PW2) in cross examination denied the fact that there is minimum half km distance between land of plaintiffs and defendants. Further, he admitted the facts that defendant Dilip had lodged report against him and plaintiff Kumbharya. He also admitted that plaintiff Kumbharya was filed his claim for forest land in the year 2022. Kashiram Thakare (PW3) in cross examination admitted the suggested fact that plaintiffs and defendants are cultivating their respective fields. Field of plaintiff Kumbharya and defendant no. 4 Dilip are situated at distance. He had seen at one occasion that defendants interfered plaintiffs' possession.

08. Plaintiffs are relied some documentary evidence, such as, title receipt of forest land in possession at Exh. P-28, which shows that plaintiffs are granted forest land in compartment no. 321 admeasuring 3.25 HR in year 2010. However, no boundaries appear to have been specified in this order. Certified copies of case register at Exh. P-29 reflects criminal case was registered against plaintiff no. 1 for encroachment on the forest land.

09. In rebuttal, defendant no. 4 Dilip examined at Exh. 41 by adducing his evidence on affidavit. He deposed in same line of pleading. In cross examination he testified four boundaries of land in his possession such as, to Eastern- field of Hunya, to Western-small River, to Northern-river and to Southern- field of Jangalya Kalya. He further deposed that he

did not file any public documents showing these boundaries of land. He also testified that he is cultivating his own land and land of plaintiffs is laying barren. Defendants did not rely any documents.

10. Lrd. advocate for plaintiffs argued that plaintiffs have proved their ownership as well as possession over the suit property by oral as well as by title receipt of forest land issued under Forest Right Rules, 2008. Further, specific evidence came from mouth of plaintiff no. 1 that on 20.06.2022 and 31.07.2022 defendants had intruded the suit property, obstructed and threatened them that they would dispossess them. Fact of dispute on land between parties is suggested by defendants and admitted by plaintiffs. Thus, plaintiffs have established their exclusive possession over the suit property as well as obstruction or interference by the defendants by adducing sufficient material and hence, plaintiffs are entitled for the reliefs they sought for.

11. Per contra, Lrd. advocate for defendant argued that simpliciter suit for injunction is not maintainable. This suit is baseless. Plaintiffs did not lodge FIR of threatening and obstruction incident as alleged. Plaintiffs do not reside at village Kanjyapani and their land is laying barren; however, to grab the fertilized land of defendants, false suit is launched. Thus, plaintiffs have failed to prove obstruction as alleged in the plaint, hence, the suit is liable to be dismissed.

Issue No. 1:

12. Upon going through the material on record, arguments advanced and from the rival pleadings of parties, it appears that defendants denied possession of the plaintiffs over suit property. They specifically contended, suit property is in their possession and property which is in possession of plaintiffs is different. It is admitted fact that properties in possession of the plaintiffs and defendants are two different properties and both properties come within forest Compartment no. 321. It is also not disputed that defendants also have instituted suit RCS no. 24/2022, in respect of property in their possession.

13. As per pleading and material on record adduced by plaintiffs, suit property having four boundaries such as; to the Eastern- Kashya Hunya, to the Western- Shildar Fadya's field, to the Northern- river and to the Southern Bahadarya's (def. no.1) field. Defendants instituted another suit bearing RCS no. 24/2022. In that they pleaded the property in their possession having four boundaries such as; to the Eastern - Kashya Handya's field, to the Western-small River, to the Northern-Jangalya Kalay's field and to the Southern-small River. As per contention of defendants if suit property is in their possession, then in that context boundaries of suit property should be matched with the boundaries of property in their possession in compartment no. 321 stated by defendants in RCS no. 24/2022. However, no such match found. This very discrepancy prima-facie demonstrates the fact that property is

in possession of the defendants is different than suit property. Moreover, defendants or plaintiffs both have failed to adduce any public record by which boundaries of their respective properties can be cleared. From very order cum title receipt of forest land in possession at Exh. P-28 below para 10 of that order it has specifically mentioned that after passing of this order boundaries of the claimed property shall be finalized by measurement of Taluka Inspector Land Record (TILR). But in both suits i.e. in present suit and in RCS no. 24/2022, both parties have failed to adduce any such measurement report carried out by TILR neither they relied any other public record.

14. Thus, except oral evidence adduced by parties, nothing before this Court to identify actual boundaries of suit property. In short, when defendants do not deny land in possession of plaintiffs in Compartment no. 321 and when there are different boundaries of properties in their respective possession as described above, it can be firmly concluded that defendants do not deny ownership as well as possession of plaintiffs over the suit property in specific term. Even, they have not adduced inch of specific and cogent material as to plaintiffs are not in possession of suit property.

15. Moreover, plaintiff no. 1 Kumbharya (PW1) specifically testified that suit property is owned and possessed by plaintiffs. During their cross-examination defendants did not put single worth suggestion or in his turn of evidence, adduce single document by which plaintiffs' ownership or possession over suit property can be covered by clouds.

Plaintiffs also relied on title receipt of forest land in possession in respect of suit property (Exh. P-28) and abstract of case register in respect of he was fined for encroachment, which crystallized the ownership and possession of plaintiffs over the suit land. Defendants also did not deny these documents. Hence, plaintiffs have proved their ownership as well as possession over the suit property.

16. In the light of above discussion and on the point of maintainability of simpliciter suit for injunction, I referred to the parties and relied on an authority of the Hon'ble Apex Court in **Jharkhand State Housing Board Vs. Didar Singh, (2019) 17 SCC 692**, wherein it was held that "*11. it is well settled by catena of judgment of this Court that in each and every case where the defendant disputes the title of the plaintiff it is not necessary that in all those cases plaintiff has to seek the relief of declaration. A suit for mere injunction does not lie only when the defendant raises a genuine dispute with regard to title and when he raises a cloud over the title of the plaintiff, then necessarily in those circumstances, plaintiff cannot maintain a suit for bare injunction.*"

17. Thus, in view of above entire discussion, obviously the present suit is maintainable. Further, being an admitted fact that both parties have their respective land in forest compartment no. 321, further it has been proved that boundaries of land in their possession contended by defendants are different from suit property, which has also been well manifested by relevant title receipt and testimonies

of witnesses, it has been proved by plaintiffs that suit property is in exclusive lawful possession of the plaintiffs. Hence, I am answering issue No. 1 in affirmative.

Issue No. 2:

18. Plaintiff no. 1 Kumbharya (PW1) specifically deposed that on 20.06.2022 and 31.07.2022, defendants unlawfully entered into suit land. They threatened plaintiffs with dire consequences if they will obstruct them. They also tried to dispossess them. Said fact of interference also has been fortified by witnesses Shildar and Kashiram (PW2 & PW3). Suggestion of trespass and obstruction did not admit by defendant Dilip (DW1). In cross examination of plaintiff Kumbharya (PW1) suggested fact admitted by him that there was dispute with defendants in respect of land and report was lodged as well as proceeding is pending before Tahsildar in this regard. In rebuttal, defendants did not rely any other cogent material and argued that he never interfered with possession of plaintiffs over the suit land and plaintiffs themselves are trying to dispossess defendants from his holding in same forest compartment no. 321 admr. 3.25 HR.

19. I am not agreed with the argument advanced by defendants' side. Because, from the admission of defendants itself (as to lodging of report of land dispute and proceeding before Tahsildar), plaintiffs have proved their conduct immediately after alleged incident they launched this suit. Which established the fact that there was something

happened. Moreover, defendants did not rely any contradictory material to disprove the fact of interference except evidence on affidavit of defendant no. 4. Thus, testimony of plaintiff no. 1 and witnesses and existence of land dispute between parties, established the fact of interference or obstruction to the suit property.

20. In light of material discussed *supra*, plaintiffs have proved their ownership as well as possession over the suit land by adducing cogent, reliable material and also by admission of defendants themselves not disputing plaintiffs' title as well as possession over the suit land with probable material. So far as regard event of interference, specific evidence has come on record about the trespass and obstruction on 20.06.2022 and 31.07.2022 in testimonies of Kumbharya (PW1) and witnesses Shilidar and Kashiram (PW2 & PW3). Further, conduct of plaintiffs immediately after alleged incident approaching Tahsildar, also proved by testimony of plaintiff no.1. Evidence of plaintiff No. 1 remained intact in cross examination.

21. Thus, move of defendants defending suit by pleading evasive defence; further, not even tried to establish inch of concern to the suit land by bringing inch of evidence on record and have contested the suit for about 03 years without even probable material in hands; ultimately, proved the facts that defendants do not deny the obstruction and interference by them as alleged by the plaintiffs. Hence, it is proved by the plaintiffs that defendants illegally entered suit

land and has obstructed their lawful possession. Accordingly, I am answering issue No. 2 in affirmative.

Issue No. 3 & 4:

22. It is here pertinent to note that defendants did not deny title and possession of plaintiffs in compartment no. 321. Defendants failed to prove four boundaries of suit property are actually boundaries of their land in possession, as alleged in pleading. In such circumstances, though defendants specifically denied obstruction incident as alleged by plaintiffs, if defendants does not show their inch of concern to the suit land by worth material, then it won't cause him inch of hardship if injunction granted as prayed for by the plaintiffs.

23. It is also argued by lrd. advocate for defendants argued that in case of uncertainty of boundaries injunction cannot be granted. However, I am not agreed with this submission; because, no public record adduced by both sides showing exact boundaries of suit land. However, at the same time no cogent material found on record by which it can be said that boundaries described in plaint are uncertain. Hence, boundaries stated by plaintiffs remained intact, which appeared certain.

24. Thus, plaintiffs are obviously entitled for the perpetual injunction against defendants or any other persons through them not to obstruct their lawful possession over suit land. It is also seen that without any probable material and on mere evasive denial defendants contested this suit and forced

the plaintiffs to bear the expenses of it. Thus, the plaintiffs are also entitled for the cost of the suit to be borne by the defendants. Hence, I am answered issue No. 3 in affirmative. Resultantly, in answer to issue No. 4, I am passing following order-

ORDER

- i) The suit is decreed with costs. Defendants to bear their own costs and costs of the suit.
- ii) Defendants by themselves or through other on their behalf, are perpetually restrained from disturbing possession of plaintiffs over the suit land.

Decree be drawn up accordingly.

Dhadgaon
April 17, 2026

(B. S. Wadhai)
Civil Judge Jr. D. Dhadgaon

“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT.”	
Name of the Judge	Mr. Bhushan Shankar Wadhai
Name of the Stenographer	Pallavi A. Sonar
Date of pronouncement of order	17.04.2026
Judgment signed by P. O. on	17.04.2026
Judgment uploaded on	17.04.2026