

MHND100000402026



ORDER BELOW EXH-05

(Passed on this 27th day of July, 2026)

The Plaintiff has filed present application claiming relief to restrain the defendants from causing obstruction in field land Gut No 210, area admeasuring 0.18 R situated at mauja Umraj, Tal. Kandhar, Dist. Nanded (Here-in-after called as 'the suit property') till the disposal of the suit.

2) The plaintiff avers that, her husband had purchased Gut n. 210 area 0.21 R land by registered sale deed bearing document No. 909/2014 dated 06/06/2014. Her husband sold 0.03 R land to Devidas Kisan Padampalle during his life time. So Suit property was purchased and possessed by her husband. Her husband died on 16/08/2017. After demise of her husband, She has been in peacefull possession of Suit property. The mutation entry is recorded in her husband's name and thereafter in her name. However, the defendants are causing obstruction to her possession over suit property. On 10/01/2026 defendant No. 1 entered the suit property and caused obstruction to her possession by denying her title over the suit property. Therefore, she has filed the present suit alongwith present application. So, the defendants are required to be restrained from causing obstruction over the suit property by way of temporary injunction.

3) The defendants opposed the application by contending that, the plaintiff did not possess the suit property. Her husband had sold 0.01 R. land to Ganpati Gaikwad and Raubai Gaikwad, 0.02 R. land to defendant No. 1 and 0.01 R. land to Kishan Babarao Nilewad etc. by notarized Bonds. Even 0.03 R. land had already sold

to Devidas Padampalle. That apart, the plaintiff entered into agreement to sell to some other persons. Therefore, the plaintiff did not possess the suit property as claimed. The purchasers of land possessed the suit property and they constructed houses thereon. Even the plaintiff is not sole legal representative of her husband. She could not have filed the suit claiming her ownership alone. The plaintiff has filed false suit in order to harass them. The suit itself is not maintainable. So, the application is liable to be rejected.

4) Heard learned advocate for the plaintiff Shri. S. M. Phuke and learned advocate for defendant Shri. A. G. Puranik.

5) Following points have arisen for my determination. I have recorded my findings against each as follows.

Points		Findings
1	Whether the plaintiff has made out prima-facie case in his favor ?	Yes.
2	Whether balance of convenience lies in favor of the plaintiff ?	Yes.
3	Whether the plaintiff will suffer irreparable loss, if the injunction as prayed is not granted in her favor ?	Yes.
4	What order ?	As per final order application is Allowed.

REASONS

As to point no.1 to 3 :-

6) Point no.1 to 3 are taken up jointly for discussion and decision in order to avoid to the repetition of facts. The plaintiff relied on documents filed along with list Exh.07.

7) Learned advocate for the plaintiff submits as per contents of the application. In addition it has also submitted that Suit property was purchased and possessed by her husband. Her husband died on 16/08/2017. After demise of her husband, She has been in peaceful possession of Suit property. The mutation entry is recorded in her husband's name and thereafter in her name. The defendants are causing obstruction to her possession over suit property. On 10/01/2026 defendant No. 1 entered the suit property and caused obstruction to her possession by denying her title over the suit property. The claim of the plaintiff is supported by the documentary evidence. If the defendants are not restrained, they will dispossess her over the suit property which results in multiplicity of proceedings. Thus the plaintiff has prima-facie case and also balance of convenience lies in her favor. If the defendants are not restrained from causing obstruction, they might dispossess her over the suit property which would result in irreparable loss.

8) Learned advocate for the defendants submits that, the plaintiff did not possess the suit property. Her husband had sold 0.01 R. land to Ganpati Gaikwad and Raubai Gaikwad, 0.02 R. land to defendant no. 1 and 0.01 R. land to Kishan Babarao Nilewad etc. by notarised bond. Even 0.03 R. land had already sold to Devidas Padampalle. The plaintiff entered into agreement to sell to some other persons. Therefore, the plaintiff did not possess the suit property as claimed. The purchasers of land possessed the suit property and they constructed houses thereon. Even the plaintiff is not sole legal representative of her husband. She could not have filed the suit claiming her ownership alone. They have filed on record bonds paper and affidavits of purchaser. As per the case laws relied by them, mutation entry does not pass title in her favour. The plaintiff has no prima facie case and even balance of convenience does not lie in her favor. If the application is rejected, no prejudice would be caused to the plaintiff. So, the application is liable to be rejected.

9) In order to adjudicate present application, it is necessary to see whether the plaintiff has been in possession of the suit property or not?

10) Learned advocate for the defendants, in order to show that the plaintiff is not in possession, has filed on record affidavits of purchasers of land i.e. the suit property. However, it is necessary to take the note that proposed purchasers are neither party to the suit nor they filed any suit or counter claim claiming their possession. So at this stage veracity of contents of these affidavits cannot be considered and it can be looked during the course of trial of the suit.

11) It is necessary to take note of authorities relied by Ld. Advocate for the defendant. In the case of ***Jitendra Singh Vs. The State of Madhya Pradesh and Ors***, *Special Leave Petition (c) No. 13146/2021 dated 06/09/2021* and ***Suraj Bhan and ors Vs. Financial Commissioner & Ors***, *Appeal (civil) 1971 of 2007, decided on 16/04/2007* by Supreme Court of India wherein Hon'ble lordship has observed that. *it is well settled that an entry in Revenue Records does not confer title on person whose name appears in Record of Rights. It is settled law that entries in the Revenue Records or Jamabandi have only 'fiscal purpose' i.e. payment of land-revenue, and no ownership is conferred on the basis of such entries. So far as title to the property is concerned, it can only be decided by a competent Civil Court.* However, by deciding the present application the court is not required to decide issue of title. So at this stage in my humble opinion these authorities are not helpful to the case of defendant.

12) From perusal of document No.1 i.e. 7/12 extracts of the suit property filed along-with list Exh.07, the suit property appears to be possessed by the plaintiff. As per sale-deed filed on record, it establishes the fact that, husband of the plaintiff has purchased the suit property by registered sale deed. On perusal of these documents filed on record, it prima facie shows that, the plaintiff has been in possession of the suit

property as claimed. Thus, the apprehension to the plaintiff that, the defendants are causing obstruction to her possession over the suit property can not be ruled out. So, the plaintiff has prima facie case and balance of convenience also lies in her favor. So, the plaintiff would also suffer irreparable loss, if the present application is not allowed. In view of this fact and circumstances, I answer issue no.1 to 3 in Affirmative.

As to point no.4 :-

13) In view of my above finding and discussion to point no.1 to 3, I pass the following order.

ORDER

1. Application Exh. 05 is allowed.
2. The defendants are hereby restrained from causing obstruction over the suit property till the disposal of the suit.
3. Cost would be the cost in cause.

Date. 27.07.2026

(K.S. Khandare)
Civil Judge Junior Division,
Kandhar.