

MHND170002632024



RCS No.56/2024.

Sangita & Ors. Vs.  
Champati & Ars.**ORDER BELOW EXH.05.**

01. The plaintiffs have filed an application for temporary injunction under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure, 1908 and seeking a temporary injunction against the defendants to restrain them not to disturb the peace full possession over the suit property till the disposal of the suit located at Gut Nos. 360, admeasuring 54 R as specifically mentioned in Paragraph No. 01 of the plaint, situated in at. at Siranjani, Himayatnagar, District Nanded. Which will be referred here in after as a suit property for the sake of brevity.

**The germinating facts of this litigation are as under.**

02. The plaintiffs contend that Defendant No. 01 is the father of Plaintiff No. 01 and husband of Plaintiff No. 02, while Defendant Nos. 02 and 03 are close relatives. According to the plaintiffs, the defendants are illegally interfering with their peaceful possession and enjoyment of the suit agricultural land. Plaintiff No. 01 had earlier filed Regular Civil Suit No. 17/2022 for partition and separate possession of ancestral land bearing Gat No. 360, admeasuring 0H 80R at Siranjani. The Court, by judgment dated 15.11.2022, granted 1/3rd share each (0H 27R) to

Plaintiff Nos. 01 and 02, and the decree was executed through the revenue authorities, who delivered possession on 27.05.2024. Since then, the plaintiffs claim to be in lawful possession.

**03.** The plaintiffs further allege that on 29.06.2024, Defendant No. 03 threatened Plaintiff No. 01 with dispossession and even life threats, asserting a claim over the land. Defendant Nos. 01 and 02 also allegedly supported such threats. On this basis, the plaintiffs assert that they have a prima facie case, the balance of convenience lies in their favour, and denial of injunction would cause irreparable loss, including dispossession and loss of cultivation. Therefore plaintiffs prayed that application be allowed as prayed.

**04.** On the other hand, Defendant Nos. 01 to 03 deny the plaintiffs' claims and contend that the suit is based on incomplete and incorrect facts. They assert that Defendant Nos. 02 and 03 have no concern with the property and have been unnecessarily impleaded. While certain relationships are admitted, the defendants deny any interference with the plaintiffs' possession.

**05.** The defendants further dispute the status of Plaintiff No. 01 and deny that Plaintiff No. 02 is the wife of Defendant No. 01, stating instead that Defendant No. 01 is married to another woman and has two daughters. They also deny that the suit property is ancestral.

**06.** Regarding the earlier suit (RCS No. 17/2022), the defendants contend that the judgment was obtained ex parte when Defendant No. 01 was seriously ill, suffering from tuberculosis and later paralysis, and therefore unable to respond to summons. They claim that the decree was

passed without proper contest and challenge its validity. They also deny that the plaintiffs are entitled to injunction, asserting that no prima facie case or balance of convenience exists in favour of the plaintiffs, and that no irreparable loss would be caused to them.

**07.** Heard Ld. Advocate for the plaintiffs and defendants at length. Considering the contentions of the parties and documents on record, the following point arises for my consideration for the determination of this application and I have recorded my findings thereon with the reasons given there below.

| <b>Findings</b>                                                                                           | <b>Points</b>                            |
|-----------------------------------------------------------------------------------------------------------|------------------------------------------|
| 1. Do the plaintiffs have prima facie case to grant temporary injunction as prayed ?                      | <b>Yes.</b>                              |
| 2. Whether the balance of convenience lies in favour of plaintiff ?                                       | <b>Yes.</b>                              |
| 3. Whether the plaintiffs will suffer irreparable loss in the event of not granting temporary injunction? | <b>Yes.</b>                              |
| 4. What order ?                                                                                           | <b>Application at Exh.05 is Allowed.</b> |

**: REASONS :**

**Points No. 1 to 3 are discussed**

**separately as follows :**

**08. Point No. 1 – Prima Facie Case**

For deciding this point, it is necessary to ascertain whether the plaintiffs have established a prima facie case in their favour. The case of the plaintiffs are that the suit property is the ancestral property of Defendant No. 01 and that the same was not partitioned earlier. Therefore, Plaintiff Nos. 01 and 02 had filed Regular Civil Suit No. 17/2022 against Defendant No. 01 for partition and separate possession. The said suit came to be decreed on 15.11.2022, and thereafter, in execution of the decree, possession of the respective shares was handed over to the plaintiffs. Since then, the plaintiffs claim to be in possession and cultivation of the suit property. It is further their case that the defendants are now interfering with their peaceful possession.

**09.** On perusal of the record, it is seen that the 7/12 extracts of the suit property reflect the names of the plaintiffs, and 27 R land has been recorded in their favour through Mutation Entry No. 2624. The said revenue record also indicates that the plaintiffs are cultivating the suit land.

**10.** Further, the certified copy of the judgment in Regular Civil Suit No. 17/2022 shows that the suit filed by the plaintiffs for partition came to be decreed on 15.11.2022. The plaintiffs have also placed on record the possession receipt (Taba Pavati) dated 27.05.2024, which shows that possession was handed over to them through due process.

11. Thus, from the material placed on record, it prima facie appears that the plaintiffs are in possession of the suit property. On the other hand, the defendants have contended that the said decree was passed ex parte and not on merits. However, it is pertinent to note that the defendants have a remedy under law to challenge the said decree. Unless the said decree is set aside by a competent court, it holds the field. Therefore, at this stage, the plaintiffs have successfully established a prima facie case.

**12. Point No. 2 – Balance of Convenience**

For deciding this point, the Court has to consider which party would suffer greater hardship by granting or refusing the injunction. In the present case, the plaintiffs are shown to be in possession of the suit property as per the revenue record and execution proceedings. If the defendants are not restrained, there is a strong possibility of interference with the plaintiffs' possession, which may lead to multiplicity of proceedings.

13. On the contrary, if the defendants are restrained from interfering with the suit property, no serious prejudice or irreparable harm would be caused to them, particularly when they are not shown to be in possession. Hence, the balance of convenience lies in favour of the plaintiffs.

**14. Point No. 3 – Irreparable Loss**

The next consideration is whether the plaintiffs would suffer irreparable loss if the injunction is not granted. The suit property is an agricultural land, and the plaintiffs are cultivating the same. If their

possession is disturbed, they may lose not only possession but also the standing crops and their source of livelihood. Such loss cannot be adequately compensated in terms of money. Therefore, non-grant of injunction would result in irreparable loss to the plaintiffs. In view of the above discussion, all three ingredients required for grant of temporary injunction are satisfied. Hence, the application is allowed.

### **ORDER**

01. The Defendant Nos. 01 to 03 are hereby restrained from interfering with the peaceful possession and cultivation of the plaintiffs over the suit property till the final disposal of the suit.
02. Cost in cause.

**Place :- Himayatnagar**

**Date : 10.04.2026**

**( Z. Z. Quadri )  
C.J.J.D., Himayatnagar.**

**CERTIFICATE**

|                                                                                                         |                                                            |
|---------------------------------------------------------------------------------------------------------|------------------------------------------------------------|
| I affirm that, the contents of this P.D.F. file order are same word to word, as per the original order. |                                                            |
| Name of the Stenographer                                                                                | N.K.Hingmire                                               |
| Court Name                                                                                              | Court of CJJD & JMFC,<br>Tq. Himayatnagar.<br>Dist. Nanded |
| Judgment signed by<br>the Presiding Officer on                                                          | 10.04.2026                                                 |
| Judgment/Order uploaded<br>on                                                                           | 10.04.2026                                                 |