

MHNG080013552024



RCS No.76/2025

Harsha +1 Vs Rajnandani  
& Ors.

**ORDER (BELOW EXH.5)**

(Passed on 18.10.2025)

This is an application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure.

2] **The brief facts of plaintiffs case are as under :**

According to plaintiffs, they and defendant No.5 to 7 are daughters, defendant No.2, 8 are sons of Jivanlal Bawankule and defendant No.3 is their mother. Jiwanlal had land in Khasra No.16/3 to the extent of 2.87 Hectors (hereinafter referred as suit land). There was no previous partition by metes and bounds. Plaintiffs and defendant No.2 to 8 are having share of partition to the extent of 1/9th each. On 24.05.2024 there was paper publication at newspaper Navbharat in which defendant No.1 shown willingness to purchase land from defendant No.2. Defendant No.2 executed gift deed in his favour by taking disadvantage of her old age. Plaintiffs further contended that defendant No.2 and 3 not took their consent before executing gift deed. Hence filed present suit praying for declaration and perpetual injunction. Since there is danger to create third party interest. Hence, present application.

3. Defendant No.4 to 7 filed written statement below Exh.35 and admitted relation in between them and share of partition to the extent of 1/9th share. They admitted execution of

gift deed dated 05.06.2024 by defendant No.3 in favour of defendant No.2. According to defendants gift deed is executed without any coercion but denied alienation of suit land. Finally prayed for reject the application.

4. Following points arise for my determination to which my findings with reasons thereon are as under.

Sr. No.	POINTS	FINDINGS
1	Whether plaintiffs are having prima facie case in their favour ?	...Yes.
2	Whether the balance of convenience lies in favour of plaintiffs ?	...Yes.
3	Whether plaintiffs will suffer irreparable loss if the temporary injunction is not granted ?	...Yes.
4	What order ?	Application is allowed as per final order.

### **REASONS**

#### **AS TO POINTS NO.1 to 3 :-**

5. All these points are interlinked with each other. Hence clubbed together to avoid repetition. Plaintiffs to prove their case filed documents below list Exh.4 that contains following documents. 7/12 extract of suit property, public notice in newspaper Navbharat by defendant No.1, Legal notice to defendants, postal receipts, objection to public notice and Postal receipts.

6. Relation in between plaintiff and defendant No.2 to 8 are admitted. Perusal of 7/12 extract shows names of इंद्रजित जिवनलाल बावनकुळे, निलकंठ जिवनलाल बावनकुळे, हिराबाई देविदास भुते, हर्षा प्रदिप टेकाडे, लक्ष्मीबाई शंकरराव सावरकर, रुखमा बंडुजी तांदुळकर, भागरथा

मुरलीधर हटवार, चंद्रभागा जिवनलाल बावनकुळे, बेबि लक्ष्मण फंदी.

7. Perusal of paper publication dated 24.05.2024 shows that defendant No.1 going to purchase 1.57 acre at land Survey No.16/3 having measurement to the extent of 2.87 out of which 1.576 Acre. Record further shows plaintiffs sent notice dated 28.05.2024 and 03.06.2024 through Advocate. Prima facie there is property belongs to father of plaintiffs and names of nine persons. Parties were having equal shares there is no share determined till today. Defendant No.2 and 3 executed gift deed there is heavy possibly to protect the interest of plaintiffs. Injunction can be granted to prevent multiplicity of litigation.

8. In such circumstances there would be substantial loss would cause to the interest of plaintiffs which can be protected by granting temporary injunction. Hence my findings to point No.1 to 3 in the affirmative and in answer to point No.4 I pass following order.

**ORDER**

1. Application is allowed.
2. Defendant No.1 to 8 are temporarily restrained from executing third party interest over suit land till disposal of the suit.
3. Costs in cause.

Date :18/10/2025

( Q.R. Syed )  
2<sup>nd</sup> Joint Civil Judge Junior Division,  
Kamptee, Dist. Nagpur

ENDORSEMENT

Case argued on	:	18/10/2025
Order dictated on	:	18/10/2025
Transcription ready on	:	18/10/2025
Order checked and signed on	:	18/10/2025

CERTIFICATE

I affirm that the contents of this P.D.F. File are same word to word as per original order.

**Name of Steno** :- **Vrushabh Wanjari**