

MHNG09001216-2024



R. C. S. No.48/2024

Pundalik Vs. Leelabai & oths.

ORDER BELOW EXH.48
(Passed on 1st day of August, 2025)

This is an application filed by plaintiffs for grant of temporary injunction as per Order XXXIX Rule 01 and 02 R/w Section 151 of the Civil Procedure Code for restraining defendant nos. 11 and 18 from creating any third party interest over the suit property and from creating any hurdle for the right, title and possession of plaintiffs. It is the contention of plaintiffs that, Alokhbai Bhagwan Bambal and Parasram Ukundaji Vyavhare jointly purchased the field Survey No.743 and 744 admeasuring 3.36 and 1.37 respectively in aggregate 4.73 acres (1.91 H.R.). Thereafter, they separated their share and as such legal heirs of Alokhbai become the owner of 0.96 H.R. land out of the field Survey no. 743 and 744/1 whereas Parasram Ukundaji Vyavhare is become the owner of old Survey no. 743 and 744/1 gave 0.95 H.R. Accordingly, there names were mutated in revenue record. The vendor of the land was Rajendra @ Rajabal Santoshrao Deshmukh. After the execution of the sale deed, no land remain in these Kh. No.743 and 744 on the name of Rajendra Deshmukh.

02. In the fragmentation and consolidation these land owned and possessed by Parasram Ukundaji Vyavhare is renumbered field Survey no.195/1 and in area reduced from 0.95 H.R. to 0.76 H.R.

whereas the land owned by Pundalik Bhagwan Bambal is renumbered as a field Survey no. 195/2 and reduced his area from 0.96 to 0.77 H.R. Both the fields Survey Nos.195/1 and 195/2 are adjacent to each other, but, in this renumbering the field Survey no.196 is created and 0.19 H.R. land Survey nos. 195/1 and 195/2 are shown in the field Survey no.196, total admeasuring 1.23 H.R. as area of field Survey no.196 on the name of Rajendra @ Rajabal Santoshrao Deshmukh. In fact, both the owner of the land are in factual possession.

03. That, defendant no.11 Rajeshwar Kisanji Sonare and proposed defendant Rohit Bhaskar Sonare had entered into an agreement with the third person on 19.02.2025. They issued the public notice in Navbharat Hindi through their advocate Vilas Zade and shown that they are willing to sale the field Survey no. 195/1 and 195/2. In fact, they were not the owner of these property. Therefore, there is need to order injunction against Rohit Sonare and proposed defendant no.18. As such, they prayed to restrain defendant nos. 11 and 18 from alienating the suit property.

04. The application is strongly opposed on behalf of defendant nos. 11 and 18 by filing their say on next page of the same application. It is their contention that the application filed after LRs came on record. Original plaintiff has not sought any such relief, hence, application may be rejected.

05. Heard the Ld advocate Shri. Naikwade appearing for plaintiffs and Ld. Advocate Shri. H. I. Tajne appearing for defendant nos. 7 to 11 at length.

06. On perusal of the pleadings and documents filed by them for perusal of this Court, following points arisen for my consideration and I give answer to them along with reasoning thereon :

Sr. No.	Points	Findings
01.	Do plaintiffs prove that, they have a prima facie case ?	In the affirmative
02.	Do plaintiffs prove that, the balance of convenience is lies in their favour ?	In the affirmative
03.	Do plaintiffs prove that, if the injunction is not granted in their favour, then they will suffer the irreparable loss ?	In the affirmative
04.	What order ?	As per final order.

REASONING

As to point Nos.01 to 04 :

07. Points no. 1 to 4 are interlinked to each other, hence, to avoid the repetition these points are taken together and answer thereon given collectively. On perusal of the record it reveals that the ancestor of plaintiffs had purchased the suit property as per the sale deed dated 15.03.1972 along with Parasram Vyavhare. They have purchased field Survey no. 743 and 744 admeasuring 6.36 and 1.37 respectively total admeasuring 4.73 from Rajendra Deshmukh. The vendor has sold his total share in this property. However, in the consolidation and fragmentation proceeding the survey number is renumbered as survey nos. 195/1 and 195/2 admeasuring 0.76 and 0.77 H.R. Plaintiffs have applied to the Superintendent Land Record

at Nagpur and shown the mistake committed by the officer during the consolidation proceeding. Thereafter, in an inquiry it is found that the area of plaintiffs is shown less and proposed correction was need to be expected. The Superintendent of Land Record prepared their proposal to send before the appropriate authority at Pune.

08. During the pendency of the suit on 20.09.2024, Lata Lonkar, Satyafula Wankhede, Satish Vyavhare, Sachin Vyavhare, Vaishali Kshirsagar and Leelabai Kshirsagar have sold out the property of plaintiffs to proposed defendant nos.11 and 18 Rohit Bhaskar Sonare and Rajeshwar Kisanji Sonare. The intention behind to execute the sale deed during the pendency of the suit is only to deprive applicants/plaintiffs from their lawful. Defendant no. 11 and 18 now created third party interest over the suit property hence, they are need to abstain from creating third party interest. Plaintiff are possession of the suit property from inception. By creating third party interest by the present defendants shown in various proceeding apprehension that defendant nos. 11 and 18 may be create third party interest. So also, they may dispossess plaintiffs from the possession over the suit property. As such, plaintiffs have establish that prima case balance of convenience lies in their favour and if injunction is not granted then they will suffer irreparable loss. Hence, I answer point nos. 1 to 3 in affirmative and to answer issue no. 4, I proceed to pass following order :-

ORDER

1. Temporary injunction application Exh.48 is hereby allowed.

2. Defendant nos. 11 and 18, their agents, servants, relatives or any person claiming through them are hereby restrained from disturbing peaceful possession of plaintiffs over the field Survey no.195/2 and also restrained from creating third party interest over the field Survey no.196 till the decision of the suit.
3. No order as to costs.

Saoner
Date : 01.08.2025

(S. A. Sardar)
Civil Judge Sr. Dn. Saoner
Tahsil Saoner, District Nagpur

CERTIFICATE

I affirm that the contents of this PDF file of order are word to word as per original order.

Smt. L.M.Shendre
Stenographer(Grade-II)