

**IN THE COURT OF CIVIL JUDGE SENIOR DIVISION RAMTEK,**  
**TAHSIL-RAMTEK, DISTRICT-NAGPUR.**

MHNG130001392025



**Spl.Civil Suit No.17/2025**

**(Gali Vyankat Alias Venkata Sai Vashwantraj Vs. Rajkumar Hiranman Patil  
and ors.)**

(Appearance for Plaintiff Ld. Advocate Shri. A. G. Mahajan  
Ex-party or without written statement)

**ORDER BELOW EXH.5.**

(Passed on this 18<sup>th</sup> day of March, 2026)

This is an application filed by plaintiff under Order 39 R(1)(a) of Code of Civil Procedure for restraining the defendants from creating third party interest in respect of the suit property until the decision of suit.

02. The case of the plaintiff in short as follows-

The plaintiff has instituted the present suit seeking specific performance of the agreement of sale in respect of agricultural land bearing Survey No. 21/1, admeasuring 2.53 H.R., situated at Mouza Salva, P.C. No. 52, Tahsil Mouda, District Nagpur. Defendant Nos. 1 to 6 are the recorded owners and possessors of the said ancestral property. Defendant Nos. 1 to 3 are real brothers, whereas Defendant No. 4 is the widow and Defendant Nos. 5 and 6 are the daughters of Tulsiram Hiranman Patil, who was the real brother of Defendant Nos. 1 to 3. Thus, all defendants are closely related and jointly hold the suit property as ancestral property.

03. According to the plaintiff, the defendants were in need of money for purchasing another immovable property and for the betterment of their family, and therefore decided to sell a portion of the suit land admeasuring 0.81 H.R. out of Survey No. 21/1. Through the mediation of one Bhaskar

Babu, the plaintiff came in contact with the defendants and negotiations took place between the parties. Consequently, the defendants agreed to sell the said portion of land to the plaintiff for a total consideration of Rs. 21,50,000/-. Thereafter, the agreement of sale dated 10/06/2022 was executed in writing before witnesses at Kamptee and the same was notarized.

04. It is the case of the plaintiff that at the time of execution of the agreement, the plaintiff paid earnest money of Rs. 8,00,000/- to the defendants partly in cash and partly through cheques, which amount was duly acknowledged by the defendants. The defendants also delivered possession of the land admeasuring 0.81 H.R. to the plaintiff. It was further agreed that after completion of necessary formalities, including measurement of the land and payment of the remaining consideration, the defendants would execute a registered sale deed in favour of the plaintiff.

05. Subsequently, due to the death of one Vikas Tulsiram Patil whose name appeared in the revenue record, another agreement dated 06/02/2023 was executed between the plaintiff and Defendant Nos. 1 to 4 acknowledging the earlier agreement and reiterating their commitment to execute the sale deed after necessary corrections in the revenue record. However, despite repeated requests made by the plaintiff and issuance of several letters and legal notices, the defendants failed and neglected to execute the sale deed in favour of the plaintiff.

06. The plaintiff contends that he has always been ready and willing to perform his part of the contract by paying the remaining consideration and completing the transaction. However, the defendants have intentionally avoided execution of the sale deed and thereby committed breach of contract and further they are having intension to alienate the suit property to the third party and thereby trying to deprive plaintiff from his right. Therefore,

under these circumstances, the plaintiff is constrained to file present application to protect his interest in the suit property.

07. On the other hand, matter has been proceeded ex-parte against defendants.

08. Heard learned advocate for the plaintiff. I have perused documents filed on the record.

09. Considering the nature of controversy, the following points arise for my determination and I have recorded my findings thereon with reasons as follows :-

Sr. No.	<u>POINTS</u>	<u>FINDINGS</u>
1.	Whether there is a prima facie case in favour of plaintiff ?	In the affirmative
2.	Whether there is balance of convenience in favour of plaintiff ?	In the affirmative
3.	Whether plaintiff would suffer irreparable loss, if interim relief is refused ?	In the affirmative
4.	What order ?	Application is allowed.

**REASONS**

**AS TO POINT NO. 1 TO 3 :-**

08. All points are interconnected to each other, therefore, they are required to be taken up together. In order to seek interim injunction, plaintiff must show that he has prima facie case and balance of convenience in his favour. In addition to this, plaintiff must further show what hardship would be caused to him if injunction is not granted.

09. Before considering prayer of plaintiff, the settled position of law on this point, needs to be mentioned herein. The cardinal principles for grant

of temporary injunction are spelt out by the Hon'ble Apex Court in landmark judgment of **Dalpat Kumar vs. Pralhad Singh [(1992) 1 SCC 719]**, wherein it has held that-

*“It is settled law that the grant of injunction is a discretionary relief. The exercise thereof is subject to the court satisfying that (1) there is a serious disputed question to be tried in the suit and that an act, on the facts before the court, there is probability of his being entitled to the relief asked for by the plaintiff/defendant; (2) the court’s interference is necessary to protect the party from the species of injury. In other words, irreparable injury or damage would ensue before the legal right would be established at trial; and (3) that the comparative hardship or mischief or inconvenience which is likely to occur from withholding the injunction will be greater than that would be likely to arise from granting it”.*

10. It is pertinent to note here that the party is not entitled to an order of injunction as a matter of right. The Hon'ble Apex Court in the case of **Shiv Kumar Chadha Etc. Etc. vs. Municipal Corporation of Delhi [1993 SCC (3) 161]** reiterated the said dictum and held that;

*“It has been pointed out repeatedly that a party is not entitled to an order of injunction as a matter of right or course. Grant of injunction is within the discretion of the Court and such discretion is to be exercised in favour of the plaintiff only if it is proved to the satisfaction of the Court that unless the defendant is restrained by an order of injunction, an irreparable loss or damage will be caused to the plaintiff during the pendency of the suit”.*

11. On the aforesaid legal position, the case of the plaintiff is required to be examined. It is the specific case of the plaintiff that he has always been ready and willing to perform his part of the contract, however, the defendants have failed to perform his corresponding obligations under

the contract without any justifiable cause.

12. In this factual backdrop, it is pertinent to note that the defendants failed to appear before the Court despite due service of summons and notices. The plaintiff has placed on record xerox copy of agreement to sell dated 10/06/2022. Upon perusal of the said agreement to sell, it is evident that the defendants executed agreements to sell in respect of the suit property i.e.81R in favour of the plaintiff by accepting earnest money of Rs.1,00,000/-. It is further reflected from the record that the stipulated time limit for execution of the sale deed was on or before 10/02/2023.

13. It is further borne out from the record that, as per the agreement to sell dated 06/02/2023, the time limit for execution of the sale deed was extended and it was agreed between the parties that sale deed would be executed after the legal heirs of deceased Vikas Patil brought on record. In other words, it is to be noted here that, the time limit was extended further without definite date or time. It means that, time was not essence of agreement to sale.

14. It is further evident that, despite issuance of legal notice dated 30/07/2024, the defendants failed and neglected to execute the sale deed.

15. All these attendant circumstances clearly demonstrate that the plaintiff was continuously ready and willing to perform his part of the contract and had also taken prompt and bona fide steps to secure execution of the sale deed. However, it is the defendants who, without assigning any cogent reason, failed to execute the sale deed.

16. In the light of the above discussion, I am inclined to hold that the plaintiff has established a prima facie case and that the balance of convenience lies in favour of the plaintiff at this stage. Consequently, if interim relief is granted in favour of the plaintiff, no prejudice would be

caused to the defendants. Conversely, if interim relief is refused to the plaintiff, he would suffer irreparable loss and injury at this stage, which cannot be adequately compensated at a later point of time. Therefore, the interest of the plaintiff in the suit property is required to be protected so as to prevent multiplicity of proceedings. Hence, all the points are answered in favour of the plaintiff.

**AS TO POINT NO. 4 :**

17. It is seen from the record that defendants are the owners of the suit property. Having regard to the interest of the plaintiff in the suit property, defendants are required to be restrained from alienating the suit property to the extent of 81R out of the suit property bearing survey no.21/1 situated at village Salva, Tahsil-Mouda, District-Nagpur in any manner whatsoever in favour of any third party till the final disposal of the suit. Thus, in view of the findings recorded on Point Nos.1 to 3, the present application deserves to be allowed. Accordingly, I proceed to pass the following order.

**ORDER**

1.	Application is allowed.
2.	The defendants or any person on behalf of them or through them are hereby restrained from alienating suit property bearing Survey No. 21/1, admeasuring 2.53 H.R., situated at Mouza Salva, P.C. No. 52, Tahsil Mouda, District Nagpur <u>to the extent of 81R</u> in any manner to the third party till the decision of the suit.
3.	Cost in cause.

Nagpur.  
Dated : 18/03/2026

(S. M. Sarode)  
Civil Judge Senior Division,  
Ramtek.

**CERTIFICATE**

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

Name of Stenographer :

R. J. Khobragade, Stenographer  
(Grade II)