

<u>CNR MHNS130007222012</u> 	Presented on	:	26/06/2012
	Registered on	:	26/06/2012
	Decided on	:	20/04/2026
	Duration	:	Y. M. D. 13 09 26

**IN THE COURT OF JT. CIVIL JUDGE, JUNIOR DIVISION,
PIMPALGAON, TAL- NIPHAD, DIST. NASHIK**

(PRESIDED OVER BY : P. D. KOLEKAR)

Civil M.A. NO. 12/2012

Exh. No.24

1. **Dashrath Nana Ghuge,**
Age : 68 years, Occ : Agriculture ,
R/o. Niphad, Dist.Nashik.

.....Applicant/Petitioner

Versus

1. **Sukhdev Baburao Katkade,**
Age : 66 years, Occ : , Agriculture,
2. **Sampat Baburao Katkade,**
Age : 64 years, Occ : , Agriculture,
3. **Shivaji Baburao Katkade,**
Age : 62 years, Occ : , Agriculture,
4. **Laxman Baburao Katkade,**
Age : 60 years, Occ : , Agriculture,

5. **Gangadhar Daulat Katkade,**
Age : 41 years, Occ : , Agriculture,
6. **Santosh Daulat Katkade,**
Age : 39 years, Occ : , Agriculture,
7. **Janardan Daulat Katkade,**
Age : 36 years, Occ : , Agriculture,
8. **Anjanabai Daulat Katkade,**
Age : 56 years, Occ : , Agriculture,
Non-applicant no. 1 to 8 R/o.
Vadgaon Pingala, Tal.Sinnar, Dist.Nashik.
9. **Satish Ganpat Chavan,**
Age : 30 years, Occ : , Agriculture,
10. **Shivaji Bhagwantrao Gadakh,**
Age : 44 years, Occ : , Agriculture,
R/o. Devpur, Tal.Sinnar, Dist.Nashik.
11. **Chetan Dilip Deshmukh,**
Age : 24 years, Occ : , Agriculture
12. **Rohan Dilip Deshmukh,**
Age : 21 years, Occ : , Agriculture
Non-applicant no.9,11,12 R/o. Ozar, Tal.Niphad
13. **Kamgar Talathi, Pimpalgaon B.**

.....Respondents/Non-applicants

<u>CLAIM</u> : Application for disobedience of injunction.

Advocates appeared :-

Ld. Adv. Shri. S.E.Aher for Applicant/Petitioner.

Ld. Adv. Shri. P. R. Ghumare for Respondents/Non-applicants.

: J U D G M E N T :
(Delivered on 20/04/2026)

The instant proceeding is filed under Order XXXIX, Rule 2A of the Code of Civil Procedure for detention of respondents for not obeying the order of temporary injunction dated 15/07/2011 in R.C.S. No. 127/2011.

Facts, In brief are as under :-

2. My learned predecessor had granted temporary injunction restraining the respondents from alienating the suit property by passing order dated 15/07/2011. It is contended that despite such order, the respondents have willfully disobeyed the same by performing the sale deed of the suit property dated 18/07/2011, thereby committing breach of injunction.

3. The respondents have resisted the application by filing their say at Exh.16. It is contended that there is no breach of the injunction order. It is further contended that the allegations are false, vague and not supported by cogent evidence. The respondents submits that the application is

filed with an intention to harass. Therefore, they prayed that the application may kindly be rejected.

4. Heard learned advocates for both sides. Perused the record and proceedings.

5. Following issues are framed to which I have recorded my findings with reasons given there below :

<u>Sr. No.</u>	<u>ISSUES</u>	<u>FINDINGS</u>
1	Whether the applicant/petitioner proves that the respondents have willfully disobeyed the injunction order passed by this Court ?	<u>NO.</u>
2.	What order ?	<u>Application is rejected.</u>

6. It is settled position of law that for establishing breach of injunction, the applicant/petitioner must prove -

- I) Existence of a clear and operative injunction order,
- II) Knowledge of such order to the respondents,
- III) Willful and deliberate disobedience of the said order.

7. It is an admitted position that the applicant has filed his evidence affidavit in support of the allegation of disobedience of the injunction order. The record further

reveals that though sufficient opportunity was granted, the respondent has failed to cross-examine the applicant. Consequently, the oral evidence of the applicant remained unchallenged.

8. However, it is a settled principle of law that mere absence of cross-examination does not automatically lead to acceptance of the entire testimony as sufficient proof, especially, when the allegation pertains to breach of Court's injunction order, which requires strict proof. In the present case, the core allegation of the applicant is that the respondent has alienated the suit property in violation of the subsisting injunction order. Such an act, by its very nature, is capable of being substantiated by cogent documentary evidence such as sale deeds, agreements, revenue records or any other contemporaneous documents evidencing transfer or creation of third party rights.

9. Despite this, the applicant has not produced any documentary evidence on record establish that the suit property was in fact alienated during the operation of the injunction order. The evidence laid by the applicant is confined only to his oral assertions in his evidence affidavit.

10. It is pertinent to note that in proceedings alleging

disobedience of an injunction order, the burden lies heavily upon the applicant to prove willful breach by clear, cogent and reliable evidence. Mere oral testimony, in absence of corroborating documentary material, is not sufficient to conclusively establish such breach. Therefore, even though the respondent has failed to cross-examine the applicant, the uncorroborated oral evidence is not adequate to hold that there was disobedience of the temporary injunction order.

11. In the present case, though there is no dispute regarding passing of injunction order below Exh.5 in R.C.S. No.127/2011, the applicant has failed to place on record any cogent and convincing material establish its willful breach. The allegations made in the application are general and not supported by specific particulars such as date, time and manner of alleged violation.

12. The applicant has not produced any independent evidence such as documents, testimony of witnesses to substantiate the alleged breach. Mere averments in the application, without supporting evidence, are insufficient to hold that the respondents have committed willful disobedience of the Court's order.

13. On the contrary, the respondents have specifically

denied the allegations. There is nothing on record to show that the alleged act was done intentionally in violation of the injunction order.

14. It is further to be noted that proceedings for breach of injunction being quasi penal in nature require strict proof of disobedience. In absence of clear and convincing evidence, such relief cannot be granted.

15. In view of the above discussion, I am of the opinion that the applicant has failed to prove breach of injunction order. Hence, I answer issue no.1 in negative and in answer to issue no.2 following order is passed :

ORDER

The application is rejected with costs.

(Dictated and Pronounced in open Court.)

Date : 20/04/2026

(P.D.Kolekar)
Jt. Civil Judge, Junior Division,
Pimpalgaon(B)