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R.C.S. No.15/2026
Vilas V/s. Manik.
Exh.5

MHNS160000852026



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Vilas Dhondiram Deshmane Vs. Manik Khanderao Nikhade

ORDER BELOW Exh.5.
(Passed on 10/03/2026)

This is the application filed by the plaintiff for temporary injunction U/O. IXXXX Rule 1 & 2 of Civil Procedure Code, for restraining the defendant causing interference to the peaceful possession, enjoyment of plaintiff over the suit property till disposal of the suit.

PLAINTIFF CASE:

02. The field property Gat No. 219/1 is purchased by plaintiff vide sale deed dated 30.08.2005. It is the contention of plaintiff that, after purchasing the said field property he has mutated his name in the revenue record and also measured his field through TILR on 23.09.2006 and thereafter constructed wire fencing to his his field property gat No. 219/1 in the year 2006.

03. It is the contention of plaintiff that, after wire fencing on western side to the plaintiff field defendant has purchased 1H 69R area on Southern side in Gat No. 213 along with common right over the 13 ft. wide way vide sale deed dated 20.12.2012. It is the contention of plaintiff that, before purchasing the said area defendant and his bother Subhash has 1H 31R area in the said gat

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No. 213 and therefore their total area became 3 H in Gat No. 213. It is the contention of plaintiff that, out of total 3H area in Gat No. 213 area 0.20 R is in the name of Subhash Nikhade, 1H 80R area in the name of Sadhana Manik Nikhade and 1 H area in the name of Manik Eknath Nikhade.

04. It is the contention of plaintiff that, after 13 Ft. wide road on Eastern side there is field belonging to the plaintiff and he has wire fencing to said area. It is the contention of plaintiff that, defendant has no right to obstruct the peaceful possession and enjoyment of plaintiff over the said area neither before purchasing area by the defendant in the year 2012 nor thereafter. It is the contention of plaintiff that, plaintiff have to level his field for taking crops therein but, defendant are creating nuisance and obstructed him and therefore he has lodged report with police station but, considering the nature of civil dispute police asked them to go to the civil court and therefore plaintiff has no option but to file this suit for injunction restraining the defendant from creating any obstruction in the peaceful possession and enjoyment over the suit property.

05. Plaintiff further submitted that, the act of the defendant are totally illegal and improper having least concerned with the suit property, they deliberately started doing the nuisance and obstruction in the possession of the plaintiff. On the other hand, plaintiff was and is enjoying his lawful ownership and

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exclusive possession over the suit property. Therefore, the interference of this Court is warranted to stop & check the illegal act of defendant. The plaintiff has made out prima-facie case, the balance of convenience also lies in favor of plaintiff & against the defendant. The plaintiff contended that, he will suffer irreparable loss if injunction is not granted in his favor.

06. It is the contention of plaintiff that, the defendant are not restrained by way of injunction then very purpose of filing this suit will be frustrated and the plaintiff will have to face irreparable loss which cannot be counted and compensated in terms of money. So plaintiff prayed that, the defendant may kindly be restrained temporarily causing obstruction and interference in the peaceful possession and enjoyment of the plaintiff over the Suit Property more specifically described in the plaint by the order of temporary injunction. Lastly he prayed to grant injunction in his favour.

DEFENDANT CASE:

07. Defendant by filing their say and Written Statement at Exh.21 has denied all the contentions of the plaintiff. It is the contention of defendants that, plaintiff has file suit for perpetual injunction. Plaintiff has approached this Court by concealing the material fact that there are 219/1, 219/2, 219/3 and 219/4 in Gat No. 219 however all other Gat number and their owner including

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other owner of Gat No. 213 are not added as party in this matter. It is the contention of defendant that, plaintiff has not measured entire Gat No. 219 and therefore he requested him several time for measurement of his entire gat No. 219 however, plaintiff failed to do so and therefore defendant with Gongalu Company has measured their Gat No. 213 on 02.01.2015. It is the contention of defendant that, plaintiff is an advocate and by using his power and money he has filed false complaints with several authorities and in police station and also threatened him. It is the contention of defendant that, the field of defendant is in high position/on hight from plaintiff field and defendant has 7-8 ft land after boundary of defendant up to the plaintiff field and plaintiff has started leveling said area and therefore defendant has obstructed him and therefore plaintiff nephew has filed police complaint on 11.01.2026. It is the contention of defendant that, he never entered in to the area of plaintiff, nor obstructed plaintiff however, plaintiff has filed this false suit and this application for injunction and therefore prayed to reject this application. It is the contention of the defendants that, defendants at no point of time caused any obstruction to the peaceful possession of plaintiff, no such incident happened as stated by the plaintiff in the plaint. The plaintiff has created an imaginary cause of action to mislead this Court. No prima-facie case is made out by the plaintiff nor any balance of convenience lies in his favor and there is no question of

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irreparable loss of the plaintiff on the other hand, it is submitted that, if any such order is passed, then the defendant would be facing hardship. The defendant therefore prayed to reject a application.

08. Heard learned advocate for both the sides.

09. On the basis of the rival contentions following points arise for determination and my findings thereon are as follows :

SR. NO.	<u>P O I N T S</u>	<u>F I N D I N G S</u>
(1)	Whether there is prima-facie case in favour of plaintiff ?	In the affirmative
(2)	Whether irreparable loss will be caused to the plaintiff ?	In the affirmative
(3)	Whether balance of convenience lies in favour of plaintiff ?	In the affirmative
(4)	What order ?	As per final order.

REASONS

10. Perused the record and heard learned advocate for plaintiff and for defendant. Perused the written notes of arguments.

11. Hon'ble Bombay High Court, in *Baban Anantrao Naik*

Vs. Sau. Pramila Uttamrao Yenare & Anr. Appeal from Order No.31 of 2010 reported in 2011(6) ALL MR 15. held that, the Factum of possession would only be the relevant factor whether the possession is lawful possession or not would not be the subject matter of inquiry. Hon'ble High Court in *Shamrao Ganpat Chintamani Vs. Kakasaheb Laxman Gorde reported in 2008(2) ALL MR 118 Hon'ble High Court* held that, prima facie case, balance of convenience and irreparable loss are the factors which require to be taken into consideration by the Court while considering the application for temporary injunction.

12. It is settled law that there is no requirement, for formal proof of the documents on record in order to decide the application for temporary injunction. However, the documents on record require to be considered to find out prima-facie good case, balance of convenience and irreparable loss to the parties to the suit. I have carefully gone through facts of the case. I have carefully gone through the arguments advanced by the learned counsel for the plaintiff and the defendant. The documents filed and relied by the parties are discussed at relevant stage.

13. The relief of injunction can not be claimed as of right. It is discretionary, equitable relief. The relief of injunction must be granted where it is necessary. It may be granted where it would help in preservation of peace and public order. Where there is possibility of breach of peace of public order, the Court ought to

proceed with caution. An injunction is a remedy against an individual and should be issued only in respect of acts done by him against whom it is sought to be enforced.

14. It is settled principle of law that, while granting temporary injunction, basic three ingredients i.e. prima-facie case, balance of convenience and irreparable loss are required to be considered from the facts and circumstances of the case and also from the documents on record.

15. As per plaintiff he has purchase the Suit Property Gat No. 219/1. It is the case of plaintiff that, he has fencing to his land in the year 2006 and now defendant obstructed to the peaceful possession of plaintiff over the Suit Property.

16. It is the case of defendant that, he has 7-8 ft land after boundary in his field up to the boundary of plaintiff field but he has not field any documents in support of his contention. It is the case of the defendant that he never entered in to field of plaintiff nor obstructed him any time and the plaintiff is having no case to claim any injunction against the defendant. The defendant has not specifically dispute about the adjoining field of plaintiff and also not specifically dispute about the wire fencing etc. It is also not brought on record that the defendant is having any land inside the plaintiff field after the said wire fencing.

17. The relief of interlocutory injunctions are granted

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generally to preserve or restore the status quo of the last non-contested status which preceded the pending controversy- until the final hearing when full relief may be granted or to compel the undoing of those acts that have been illegally done or the restoration of that which was wrongfully taken from the party complaining. But, since the granting of such an injunction to a party who fails or would fail to establish his right at the trial may cause great injustice or irreparable harm to the party against whom it was granted or alternatively not granting of it to a party who succeeds or would succeed may equally cause great injustice or irreparable harm, therefore it is required to take in to consideration that, the plaintiff has a strong case for trial. It is necessary to prevent irreparable or serious injury which normally cannot be compensated in terms of money and the balance of convenience is in favour of the one seeking such relief.

18. As discussed above for grant of injunction the plaintiff must have set forth the good prima facie case. The document filed on record shows that, plaintiff has purchased land and he is in possession of said area. The defendant has no right in the area of plaintiff therefore, further complications may be avoided by granting injunction.

19. Comparatively, the set of facts and circumstances of the case and documents on record show the prima facie case of the plaintiff for grant of ad-interim injunction. In such circumstances,

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if the temporary injunction is not granted, it will cause great inconvenience to the plaintiff and cause irreparable loss and hardship to the plaintiff. The balance of convenience is also lies in favour of the plaintiff and in such circumstances, plaintiff succeed to satisfied test of all three basis ingredients for granting temporary injunction.

20. Thus considering the above said facts and circumstances, of the case, I answer Point Nos.1 to 3 in the affirmative and in answer to Point No.4, the following order is pass.

ORDER

(1)	Application Exh.5 is allowed.
(2)	The defendant or their servants, agents, relatives, family members or any other persons on behalf of them restrained temporarily from causing obstruction and interference in to the peaceful possession and enjoyment of the plaintiff over the Suit Property Gat No. 219/1 till final disposal of the suit.
(3)	Cost to follow in main cause.

Date :- 10/03/2026

(S.S.CHHALLANI)
Civil Judge Junior Division
Chandwad.

C.J.J.D.