

**RCS No.27/2023**  
**Vishal Jain V/s. Namdev**  
**Khatale & Ors.**  
**CNR NO. MHNS230010852022**

**ORDER BELOW EXH.05**

Read application. Perused plaint and documents filed along with it. Heard learned counsel for the plaintiff. The plaintiff has come with the case that he is owner of suit property survey no.34/1/4 area 0.17 R situated within jurisdiction of Igatpuri Nagar Parishad. The original survey no.34/1 has been partitioned. The survey no.34/1/A/1 area 2.21 R owned by Punjaji Khatale. Said Punjaji has sold out 0.70 HR land to Reshma Tulsani. The plaintiff has purchased said property from Reshma Tulsani on 27.12.2007. Said Reshma Tulsani has made application for measurement of land on dated 14.08.2007 and therefore land has been measured on 28.02.2008. Thereafter, on 02.04.2014 entire land has been measured and revenue record has been separated. Accordingly, survey no.34/1/1 bears name of defendants as heirs of Punjaji and survey no.34/1/4 bears name of plaintiff. Some of the land of defendants has been acquired for National Highway. Now, defendants are trying to encroach upon land of plaintiff and thereby started construction on it. Defendants have started construction over 30x60 sq.ft. land on 24.01.2023. The land belongs to plaintiff. Defendants are unauthorizedly encroached on land of plaintiff. Therefore, plaintiff have constrained to file this suit along with application for temporary injunction.

**02** The plaint and application for temporary injunction is supported by affidavit. On perusal of contention in the plaint, application for temporary injunction and documents filed along with

it, it appears that the survey no.34/1/4 is owned by plaintiff. And survey no.34/1/1 is in the name of defendants. Further it appears that, 0.07 HR land of Punjaji has been acquired for highway. The map shows land acquired for highway. Therefore, prima facie it appears that defendants are trying to make construction over land of plaintiff. It appears that the plaintiff has right in the suit property survey no.34/1/4. Therefore, it is necessary to protect his right over the suit properties till appearance of defendants. No prejudice would cause to the defendants. On the contrary, delay in passing injunction order may defeat the very purpose of granting injunction. Hence, I pass the following order.

**ORDER**

1. Issue ad-interim injunction restraining defendants from carrying on construction over the suit property till appearance of the defendants.
2. Issue show cause notice to the defendants as to why the temporary injunction shall not be granted in favour of the plaintiff as prayed.
3. Plaintiff to comply Order 39 Rule 3 of The Code of Civil Procedure.
4. E.P. and S.B. allowed.

Dated: 06.02.2023

( M. M. Alone )  
Civil Judge (Jr.Dn.)  
Igatpuri