

ORDER BELOW EXH. 65 IN REGULAR CIVIL SUIT NO.135/2018
(CNR NO. MHNS29-0019672018)

This is an application for temporary injunction as per order 39 rule 1 of The Code of Civil Procedure, 1908. against defendant nos. 18 to 20 restraining them from creating third party interest in the suit properties during the pendency of the suit.

2. Plaintiffs' case in brief :-

The plaintiff alleged that the agricultural property bearing block no. 304, 716, 735 and 695 situated at village Adasare, Taluka Igatpuri, District Nashik originally belonged to Dattu Mahadu Kunde. After his death, his four sons Valu, Kalu, Pandu and Mahadu inherited the properties jointly as ancestral tribal family properties. However, vide mutation entry no. 1079 only Pandu's name came to be entered in the revenue record. After Pandu's death, his wife Sundarabai was entered as heir. Sundarabai had no children.

3. The plaintiff and defendants 2 to 17, being Pandu's relatives, expected mutation in their names after Sundarabai's death. However, defendant No.1 produced a registered Will dated 08/03/2013, allegedly executed by Sundarabai in her favour and recorded her name in the revenue record of the suit properties. Thereafter, defendant No.1 has sold block no. 695 and 304 to defendant nos. 18 without obtaining permission of Collector of selling triable property. Plaintiff has impleaded defendant nos. 18 to 20 in the present suit and has prayed for interim injunction against them.

4. Defendant nos. 18 to 20 have filed their say at Exh.67 and denying all allegations made by the plaintiffs. It is contended that plaintiff has suppressed the material fact that, plaintiffs have filed RTS appeal no. 648/2024 and 726/2024 in respect of sale permission. Both appeals are dismissed on 15/12/2025. The earlier interim application (exh.5) is already rejected against defendant no. 1. Defendant nos. 18 to 20 have purchased the suit properties from defendant no. 1. Therefore, the present application is also liable to rejected.

5. Plaintiffs have placed their reliance on Copy of Sale-deed dtd. 11/10/2018, Copy of registered will deed dtd. 08/03/2013, Copies of revenue proceedings between plaintiff and defendants, Mutation entry nos. 1079 and 236. Defendants have not produced any documents.

6. Perused application, say and documents. Heard both Ld. Advocates at length.

7. Upon rival contentions of the parties following points arise for my consideration, I have recorded my finding along with reasons.

Sr. No.	Points	Findings
1	Whether the plaintiffs have made out <i>prima facie</i> case in their favour?	No.
2	Whether the balance of convenience lies in favour of the plaintiffs ?	No.
3	Whether the plaintiffs will suffer irreparable loss if, temporary injunction is not granted ?	No.
4	What order and relief?	As per order.

REASONS

As to point No. 1:-

Earlier application for temporary injunction is rejected on following grounds ;

- As per mutation entry no 1079, dtd. 07/11/1957 after death of Dattu Kunde and as his son's were residing separate, mutation is effected in respect of 14 properties as per the possession of respective son's in the properties. Therefore, suit properties being in the possession of Pandu were mutated in his name.
- Block nos. 173 and 317 mutated in the name of Mahadu Kunde.
- Block nos. 693, 302 and 736 mutated in the name of Kalu Kunde.
- Block nos. 313 and 703 mutated in the name of Walu, Kalu, Pandu and Mahadu.
- Other properties are also mutated in the name of all four brothers.

8. In view of mutation entry no. 1079, it is clear that all four brothers were living separately even during Dattu's lifetime. Therefore, the suit properties had already fallen to Pandu's separate share. After Pandu's death, Sundarabai became the absolute owner. As per the copy of Will, according to medical certificate Sundarabai was in fit mental and physical state to execute will. Plaintiffs have not prima-facie shown that the will was executed by applying undue influence. So also

plaintiffs have failed to show that the suit properties are still common properties and they are in the possession of the suit properties. Hence, prima-facie the title of defendant no. 1 to the suit properties appears to be legal. Therefore I hold that there is no prima faice case in favor of plaintiffs. Defendant nos 18 has purchased suit property from defendant no. 1 and she cannot be denied to enjoy property as per her legal rights. As plaintiffs have failed to prove prima-facie case, balance of convenience does not lie in their favor. Therefore, irreparable loss would not be caused to plaintiffs. Hence, I answer Point nos. 1 to 3 in negative and in answer to Point no. 4, I pass following order :-

::ORDER::

- 1) Application is rejected.
- 2) Cost on the applicant.

(Dictated and pronounced in open Court.)

Date: 18.04.2026

(M.D. Nanaware)
Jt. Civil Judge J.D. Igatpuri.