

MHOS040001602026

RCS No.13/2026



Pralhad Vs. Lokmangal Multi
State Co.Op & Ors

ORDER BELOW EXHIBIT NO. 5

1. The Plaintiff has filed present application under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure, 1908 seeking temporary injunction restraining Defendant Nos.1 and 3 from proceeding with attachment and public auction of the suit property during pendency of the suit.

FACTS OF THE CASE

2. The Plaintiff has filed the present suit seeking:
- A. Declaration that the arbitration award dated 04.01.2022 passed by the Arbitrator of Defendant No.1 is null, void and not binding upon him;
 - B. Declaration that the registered mortgage deed dated 03.11.2017 executed in favour of Defendant No.1 is null and void;
 - C. Permanent injunction restraining Defendant Nos.1 and 3 from acting upon the arbitration award and attachment order dated 31.10.2025.
3. The case of the Plaintiff, in brief, is that the suit property i.e. agricultural land admeasuring 2 H 89 R out of Gat No.64 situated at village Shiradhon, Tq. Tuljapur, Dist.

Dharashiv, is ancestral joint family property. According to the Plaintiff, Defendant No.2 in collusion with Defendant No.1 a Multi State Co-operative Society got executed a fraudulent registered mortgage deed dated 03.11.2017 in respect of the suit property. It is submitted that the Plaintiff was neither member nor shareholder of Defendant No.1 Society and therefore Defendant No.1 had no authority to advance loan to him. It is further contended that the subsequent arbitration award and recovery proceedings initiated on the basis of said transaction are illegal.

4. The Plaintiff further submitted that, on the basis of arbitration award dated 04.01.2022, Defendant No.3 Recovery Officer attached the suit property on 31.10.2025 and initiated auction proceedings. Hence, the present suit and temporary injunction application.

5. In pursuance of notice, Defendant Nos.1 and 2 appeared before the Court. However, they failed to file say. Defendant No.3 though duly served with summons, remained absent. Hence, the application proceeded without say of Defendant Nos.1 and 2 and ex-parte against Defendant No.3. However, Ld. Advocate Shri. R. B. Jadhav for Defendant No.1 orally submitted objection that, the application is not tenable in the eyes of law. He further, submitted that, this court is not having jurisdiction to

entertain this application. Lastly he prayed to reject the application.

6. Heard learned Advocate Shri S.R. Mundhe for the Plaintiff at length. Perused pleadings, documents and material placed on record. The following points of determination arose for consideration to which I have recorded my findings with reasons thereon as under :-

Sr.No.	POINTS	FINDINGS
1	Whether the Plaintiff has established prima facie case?	No.
2	Whether the balance of convenience lies in favour of the Plaintiff?	No.
3	Whether the Plaintiff would suffer irreparable loss if temporary injunction is refused?	No.
4	What order?	As per final order.

REASONS

AS TO POINT NOS.1 TO 3

7. Since all these points are interconnected, they are taken together for discussion in order to avoid repetition. It is well settled that grant of temporary injunction is an equitable and discretionary relief governed by three cardinal principles namely:

1. Prima facie case;
2. Balance of convenience;
3. Irreparable loss.

The burden lies upon the Plaintiff to establish all the aforesaid ingredients cumulatively.

8. In support of his contentions, the Plaintiff has produced digital copies of 7/12 extracts, xerox copy of arbitration award dated 04.01.2022, xerox copy of registered mortgage deed dated 03.11.2017, attachment notice/order dated 31.10.2025 and Aadhaar Card.

9. The material on record prima facie shows that the mortgage deed in question is a registered document executed in the year 2017. The arbitration award came to be passed on 04.01.2022. The Plaintiff has not produced any material to demonstrate that he had challenged either the mortgage transaction or the arbitration proceedings within reasonable time. Significantly, the present suit came to be instituted only after attachment proceedings and proposed auction of the property. Thus, the conduct of the Plaintiff prima facie indicates prolonged inaction and acquiescence.

10. The Plaintiff has contended fraud, collusion and misuse of illiteracy. However, except bare allegations, no

cogent prima facie material is placed on record to demonstrate that the registered mortgage deed is forged, fabricated or void ab initio. Though the Plaintiff has contended that he was neither member nor shareholder of Defendant No.1 Society, no documentary material has been produced at this interlocutory stage to substantiate the said contention. No contemporaneous objection, communication, record from the Society or other supporting material is produced to prima facie establish absence of membership or complete lack of authority to advance the loan. Whether the mortgage transaction was obtained by fraud, whether the Plaintiff knowingly executed the transaction, whether the Plaintiff was member of the Society and whether the transaction was legally permissible are disputed questions of fact requiring full-fledged trial and evidence. Such issues cannot be conclusively adjudicated while deciding interim application.

11. The Plaintiff has further contended that Defendant No.1 being Multi State Co-operative Society could not have advanced loan to him as he was not member or shareholder of the Society. Reliance is placed on the decision in *Jhon Vs The General Manager, REPCO Bank*. However, the said judgment pertains to competence of REPCO Bank to invoke proceedings under the SARFAESI Act. In the present suit, the disputes relates to validity of mortgage transaction, arbitral award and membership issue, which involve disputed questions of fact requiring evidence. Therefore, the

said judgment is distinguishable on facts and does not assist the plaintiff at the interlocutory stage. Further, such contention relates to validity of transaction and jurisdictional aspects arising under special statute, which require detailed adjudication before competent forum. At this stage, this Court cannot record definitive findings nullifying the transaction or arbitral proceedings in absence of evidence.

12. It is further necessary to consider the statutory scheme governing arbitral awards. Sections 34, 35 and 36 of the Arbitration and Conciliation Act, 1996 deal with challenge, finality and enforcement of arbitral awards. Section 34 of the Arbitration and Conciliation Act provides exclusive statutory remedy for setting aside an arbitral award on limited grounds specified therein. Section 35 provides that arbitral award shall be final and binding upon parties unless set aside in accordance with law. Section 36 further provides that upon expiry of limitation for challenging the award, or upon rejection of such challenge, the award becomes enforceable in the same manner as decree of Civil Court.

13. At this stage, it is pertinent to note that Section 2(1) (e) of the Arbitration and Conciliation Act, 1996 defines the term “Court” to mean the Principal Civil Court of original jurisdiction in a district and includes High Court exercising

ordinary original civil jurisdiction. The definition specifically excludes Civil Courts inferior to such Principal Civil Court or any court of Small Causes.

14. Thus, the jurisdiction to entertain proceedings under Section 34 of the Arbitration and Conciliation Act, 1996 for setting aside arbitral award vests exclusively in the Principal District Court or the High Court, as the case may be.

15. In the present matter, the Plaintiff by way of present suit has substantially sought declaration that the arbitration award dated 04.01.2022 is null and void and not binding upon him. However, this Court is not the “Court” within meaning of Section 2(1)(e) of the Arbitration and Conciliation Act, 1996 for exercising jurisdiction under Section 34 of the said Act.

16. Consequently, this Court cannot indirectly exercise powers of setting aside or staying enforcement of arbitral award by granting injunction restraining recovery proceedings initiated pursuant to the award. Granting such injunction would virtually amount to staying execution and enforceability of arbitral award which has attained statutory force under Section 36 of the said Act, despite absence of any order passed by competent Court under Section 34.

17. Apart from this, Defendant No.1 is a Multi State Co-operative Society and the dispute appears to arise out of

statutory recovery proceedings contemplated under the Multi State Cooperative Societies Act, 2002. Section 117 of the said Act bars jurisdiction of Civil Courts in respect of matters required to be referred under the Act.

18. Therefore, upon overall consideration of pleadings, documents and settled principles governing temporary injunction, this Court is of the considered opinion that the Plaintiff has failed to establish prima facie case. Further, the balance of convenience do not lies in favour of the Plaintiff and he would not suffer irreparable loss if temporary injunction is refused. Hence, Point Nos.1 to 3 are answered in the Negative.

AS TO POINT NO.4

19. In view of findings recorded above, the Plaintiff is not entitled to discretionary relief of temporary injunction. Hence, the following order.

ORDER

1. Application Exhibit No.5 stands rejected.
2. No order as to costs.

Place : Tuljapur
Date : 12/05/2026

(A.R.Mukkanwar)
3rd Jt. Civil Judge Junior Division,
Tuljapur.