

MHOS0900028792022 	RCS No. 1146/2022 Dilip Vs. Madhukar and Ors.
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ORDER BELOW EXH.5

The plaintiff has filed present application under Order 39 Rule 1 and 2 of C.P.C. against defendants.

2. According to the plaintiff, he is owner and possessor of land bearing Gat NO.58/B/4/1 to the extent of 15 R which is bounded as follows :

Towards East : Kacharu Shripati Ambirkar at
present Babasaheb Maruti Pawar
Towards West : Government road
Towards South : Land of defendant No.4
Towards North : Gilani Harur Sayyat at present
Rahul Laxman Devalkar

(Hereinafter referred as '**suit property**')

3. It is the contention of the plaintiff that, the defendant No.1 is father of defendant Nos.2 & 3. The defendant No.4 is adjacent land holder of the suit property.

4. On 01/12/1997 the plaintiff purchased suit property from the defendant No.1 vide registered sale deed bearing No.1891 for consideration of Rs.25,000/-. Since then the plaintiff is the owner and possessor of the suit property and carrying out the business of welding. Defendants have no concern with the suit property.

5. The plaintiff further contended that, he had applied to

the revenue authorities for recording his name in revenue records on the basis of sale deed. However, no action was taken by the revenue officials on that application. The defendants took undue advantage of that fact and obstructed the plaintiff from enjoying his peaceful possession over the suit property. On 20/11/2022 defendants illegally entered into suit property and obstructed the plaintiff. Furthermore, they expressed their intention to obstruct possession in future. If the such obstruction continues in future it will hamper the business of the plaintiff and ultimately will cause irreparable loss to the plaintiff. Accordingly, on above grounds prayed to allow the application by directing the defendants to not to obstruct possession of the plaintiff till disposal of the suit.

6. The defendant No.4 filed his written statement cum say below Exh.31 and denied the contentions of the application in it's entirety.

7. According to the defendant No.4 he is owner of 4.03 R land in Gat No.58/B/4/1 bearing Grampanchayat property No.4224, 4223 and 4225. He purchased said properties vide sale deed bearing Nos.210/2020, 619/2020 and 1052/2020. The plaintiff and defendant Nos.1 to 3 have no concerned with the above properties. On the basis of above sale deeds mutation entry No.3523, 3627 and 3734 was effected in the name of defendant No.4. Further, the name of defendant No.4 was recorded in assessment list i.e. 8/A extract.

8. The defendant No.4 further contents that, on the said property he had obtained electricity connection bearing consumer No.606080034241. He had constructed tin shed over the property

and running business of welding.

9. According to the defendant No.4 the sale deed bearing No.1891/1997 is false and bogus. Therefore, the plaintiff is not owner and possessor of the suit property. On the basis of said false and bogus sale deed the plaintiff has filed the present suit. Hence, on the above grounds he prayed for rejection of the application.

10. The defendant Nos.1 & 2 failed to comply order passed below Exh.27 & 29. Hence, the present application be decided without their say. The present suit is proceeded without say of defendant No.3 vide order below Exh.1 dated 26/02/2026.

11. In view of the rival pleadings, I have raised points and recorded my answers thereon, for the reason to follow thereunder:-

Sr.	<u>Points</u>	<u>Answers.</u>
1]	Does the plaintiff prove that, prima-facie case lies in his favour ?	In the negative.
2]	Does the plaintiff prove that, balance of convenience in his favour ?	In the negative.
3]	Does the plaintiff prove that, if injunction not granted in his favour he would suffer irreparable loss ?	In the negative.
4]	What order and decree ?	As per final order.

-REASONS-

12. The Ld. Advocate for the plaintiff relied upon the

following documentary evidence :

Sr. No.	Description of Documents	Exhibit number
1.	Copy of 7/12 extract of Gat No.58/B/4/1	Alongwith list at Exh.4
2.	Copy of sale deed baring No.1891/1997	
3.	Copy of Shop Act License	Alongwith list at Exh.34
4.	Light bill	

13. On the other hand the defendant No.4 has not adduced any evidence on record.

14. Heard Ld. Advocate for the plaintiff and defendant No.4.

As to point no.1 to 3 :-

15. Perused the record of suit. The plaintiff has filed present suit for declaration and perpetual injunction in respect of the suit property described in the plaint. Therefore, the primary burden lies upon the shoulder of the plaintiff to prove that, he is possessor of the suit property described in the plaint.

16. According to the plaintiff, he is in possession of suit property by virtue of sale deeds bearing Nos.1891/1997. To prove the said contention prima-facie the plaintiff relied upon the said sale deed. Perused the copy of sale deed. It's recitals prima-facie shows that, on 01/12/1997 Madhukar Anna Ambirkar i.e. defendant No.1 has sold 15 R land from survey No.58/B admeasuring 7 acer 23 R to the extent of 15 R. It's recitals further shows that, the defendant No.1 was having total 15 R land in the said survey No.58/B. After the execution of the said sale deed the defendant No.1 remained with no land in survey No.58/B.

17. The plaintiff also contended that, the defendant No.1 sold his entire land from survey No.58/B. In support of contentions the

plaintiff further relied upon the 7/12 extract of Gat No.58/B/4/1. Perused it. The name of plaintiff is not recorded in the said 7/12 extract as contended by the plaintiff that his application is not acted by revenue authorities. 7/12 extract further shows that, the defendant No.1 is having 0.09 R land in the said Gat number. It is the contention of the plaintiff that, his name is yet to be recorded in 7/12 extract. Therefore, prima-facie inference can be drawn that, the name of vendor of the plaintiff i.e. defendant No.1 still existing in the revenue records. However, on perusal of 7/12 extract it appears that, the defendant No.1 is holder of 9 R land in the said Gat number. However, the plaintiff is claiming to be owner of 15 R land in said Gat number.

18. Therefore, the contention of the plaintiff that, the defendant No.1 was having 15 R land in Gat No.58/B/4/1 is not prima-facie supported by the present 7/12 extract adduced by the plaintiff. The documents adduced by the plaintiff i.e. sale deed and 7/12 extract are prima-facie not in consonance with each other. Furthermore, no 7/12 extract showing 15 R land in the name of defendant No.1 is placed on record by the plaintiff. Moreover, the contention of the plaintiff that, his application for recording his name in revenue records is pending has remained unsupported. The reason for it is best known to the plaintiff. Therefore, the contentions of the plaintiff and documents placed on record are prima-facie mutually destructive to each other. Accordingly, no prima-facie case in favour of the plaintiff. Hence, no irreparable loss will be caused if the present application is rejected. Accordingly, I answer point Nos.1 to 3

in negative and in answer to point No.4 I pass the following order :

ORDER

The application Exh. 5 is hereby rejected.

(Dictated and pronounced in open court)

Date: 03/06/2026.

Place : Kallam

(**N. M. Reddy**)

Civil Judge Jr. Division,

(Court No.2) Kallam.

CERTIFICATE

I affirm that, the contents of this P.D.F file Judgment / order are same, word to word, as per the original Judgment / order.

Name of Stenographer	-	Shri. Prashant Sunita S. Ovhal Stenographer (Grade-III)
Court	-	2nd Civil Court, Junior Division, Kallam.
Date	-	03/06/2026
Order signed by the Presiding Officer on	-	03/06/2026
Order uploaded on	-	03/06/2026