

MHOS140008082025



Regular Civil Suit No.644/2025
(Old No.187/2023)

IN THE COURT OF CIVIL JUDGE SENIOR DIVISION, PARANDA.
(Presided over by A. A. Shaikh)

Alka Digambar Pokale

Plaintiff

Vs.

Chandrakant Raghunath Jadhav

Defendant

ORDER BELOW AT EXH-5

1. This is an application filed by the plaintiff under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure seeking temporary injunction against the defendant restraining him from causing obstruction to the peaceful possession of the plaintiff over the suit property till final disposal of the suit.
2. It is the case of the plaintiff that she is the owner and possessor of the suit land admeasuring 1 Hectare 47 R, out of Gat No.266 situated at Rohkal, Tal-Paranda. The land of the defendant is adjacent to the suit property and there exists a common bandh between both the properties. It is alleged that the defendant is attempting to demolish the common bandh and encroach upon the suit land. The plaintiff has further stated that on 31.01.2023, the defendant entered into the suit land and obstructed her peaceful possession, hence the present application is filed.
3. The defendant appeared and filed his reply resisting the application. He has admitted the ownership and possession of the plaintiff over the suit property but denied the allegations of demolition of bandh or encroachment. He prayed for rejection of the application.

4. Following points arise for my determination and I proceed to record my findings thereon for the reasons given below :-

<u>SR.NO.</u>	<u>POINTS</u>	<u>FINDINGS</u>
1	Whether the plaintiff has prima-facie case in her favour ?	..Yes
2	Whether the balance of convenience lies in favour of the plaintiff ?	..Yes
3	Whether the plaintiff would suffer irreparable loss, if temporary injunction as prayed is refused ?	..Yes
4	What order ?	Application is allowed

REASONS

5. Today when the matter was called out, the plaintiff and her advocate remained absent. They failed to advance their arguments. However, the learned advocate for the defendant was present and heard at length. The matter is proceeded with on the basis of material on record. Perused the plaint, written statements, present application and reply thereon and the documents produced on record.

AS TO POINT NOS.1 TO 4 :-

6. For the sake of convenience, I have taken up all these points together for discussion. At this stage, while deciding an application under Order XXXIX Rules 1 & 2 CPC, the Court has to consider three settled principles, namely:

(i) Whether the applicant has a prima facie case,

- (ii) Whether the balance of convenience lies in his favour, and
- (iii) Whether the applicant will suffer irreparable loss and injury in case injunction is not granted.

7. The plaintiff has filed her affidavit in support of her contention and placed on record 7/12 extract of Gat No.266. On perusal of the documents, it prima facie appears that the plaintiff is the owner and in possession of the suit property. It is also revealed from the record that there is a common bandh between the land of both parties.

8. Considering the documentary evidence and admissions of the defendant regarding ownership and possession of the plaintiff, a strong prima facie case is made out. If injunction is refused, there is likelihood of interference in possession of the plaintiff and she may suffer irreparable loss. Balance of convenience also tilts in favour of the plaintiff. In view of the above, the application under Order XXXIX Rules 1 & 2 CPC deserves to be allowed. I, therefore, answer point Nos.1 to 3 in the affirmative and in answer to point No.4 proceed to pass following order.

ORDER

1. Application Exh-5 under Order XXXIX Rule 1 and 2 of CPC is hereby allowed.
2. The defendant, his agents, servants or any person claiming through him are hereby restrained from obstructing the peaceful possession of the plaintiff over the suit property and from demolishing the common bandh, till final disposal of the suit.
3. No order as to costs.

Date:-06/12/2025.

(A. A. Shaikh)
Civil Judge Senior Division Paranda.

CERTIFICATE

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

Name of Stenographer	-	Vaibhav Mohanrao Ingale Stenographer (Grade-III)
Court	-	Civil Court Senior Division, Paranda.
Date	-	06-12-2025
Order signed by the presiding officer on	-	06-12-2025
Order uploaded on	-	06-12-2025