

MHPA110006342025



THE COURT OF CIVIL JUDGE, SENIOR DIVISION,
GANGAKHED, DIST. PARBHANI.

(Presided over by : G. B. Yadav)

Regular Civil Suit No.318 of 2025

Angad Namdeo Dandane ...Plaintiff

Vs.

Tahsildar & Ors. ...Defendants

ORDER BELOW EXH.58.

(Passed on 12.03.2026)

Perused the application and say filed on behalf of defendants. Heard Adv. K.A. Tengse on behalf of plaintiff. He submitted that order passed below Exh.05 dated 17.11.2025 be modified and it be clarified and thereby prevent defendants from measuring the suit property and also constructing any shade over suit property. It is contended that plaintiff has preferred miscellaneous civil appeal before Hon'ble District Court, Gangakhed, but yesterday only notice has been pasted on the house of plaintiff informing him that on 13.03.2026 Mandal Adhikari and Talathi will fix the boundaries with the help of Deputy Superintendent of Land Record as per order dated 02.06.2025. Therefore, plaintiff rushed to this Court for modification and clarification that defendants are misinterpreting the order dated 17.11.2025 and measuring the suit property and also fixing the boundaries. If they succeed in doing so the purpose of filing suit would be frustrated. Therefore, Ld. Advocate requested to allow the application as prayed.

02- Learned A.G.P S.B. Paul, Learned Adv. S.D. Tarkase and Learned Adv. S.D. Mundhe on behalf of defendants strongly opposed the application and submitted that application at Exh.05 was rejected by this Court and M.C.A.No.27/2025 is pending before Hon'ble District Court and therefore this Court has no jurisdiction to modify or clarify the order under challenged. It is

further submitted that there is no ambiguity in the order and therefore question of clarification and modification does not arise. They further submitted that plaintiff ought to have file this application in M.C.A.No.27/2025. Therefore, Ld. Advocate requested to reject the application.

03- Considering the rival submissions by both parties following points arise for my determination and I recorded my findings thereon for the reasons stated their below:

	POINTS	FINDINGS
1-	Whether plaintiff is entitled for injunction order ?	...In negative.
2-	Whether plaintiff is entitled for clarification and modification ?	...In negative.
3-	What order ?	...As per final order.

REASONS

AS TO POINT NOS.1 & 2:-

04- Plaintiff has filed this suit against the order of Tahsildar dated 02.06.2025 by which Tahsildar directed Revenue Officer, Mahatpuri and Mandal Adhikari, Mahatpuri to made available land to the applicants for graveyard or funeral. By that order Tahsildar also directed to take entry in the 7/12 extract of Gut No.255/1 that 01 R land is kept for the graveyard/funeral. Admittedly, mutation to that effect has already been taken by mutation entry no.715. Plaintiff has challenged that order dated 02.06.2025.

05- After hearing both parties application at Exh.05 has been rejected on 17.11.2025. Admittedly, miscellaneous civil application is pending before Hon'ble District Court, Gangakhed. It is also admitted fact that plaintiff has also approached to the S.D.O., Gangakhed against mutation entry no.715. The Court has power under Order 39 Rule 4 of C.P.C. to discharge vary, and set aside the order of injunction. But as per proviso the order shall not be

discharged, varied or set aside on the application of that party except where such discharge, variation or setting aside has been necessitated by the change in the circumstances, or unless the Court is satisfied that the order has caused any hardship to that party. Admittedly, by application at Exh.05 plaintiff has requested to grant interim injunction restraining defendant nos.1 to 5 from causing obstruction and to execute order regarding graveyard/funeral place. Admittedly, there was no such prayer in the application in Exh.05 for restraining defendants from measurement and construction of any shade. Moreover, there is no ambiguity passed in the application. Even it is not the contention of plaintiff that there is ambiguity in the order passed below Exh.05. No change of circumstances also pleaded by plaintiff.

06- As it is the matter of judicial propriety that a Court whose order under challenged before appellate authority must keep his hands away. Otherwise it would frustrate the filing of appeal. As far as the contention of plaintiff that suit would become infructuous is concern it can be said that by only measuring the property suit will not become infructuous. Moreover, plaintiff has efficacious remedy to approach before Hon'ble District Court where appeal is pending and also to S.D.O., Gangakhed and therefore no case has been made out to grant injunction and clarification as prayed. Hence, I recorded my findings in negative on point nos.1 and 2 and proceed to pass following order.

ORDER

Application stands rejected.

Date: 12.03.2026

(G.B. Yadav),
Civil Judge, Senior Division,
Gangakhed.