

CNR NO. MHPU100001652023



IN THE COURT OF CIVIL JUDGE (JR. DN.) P.C.M.C. COURT AKURDI, PUNE.
R.C.S. No. 66/2023
M/s. Bhuvi (A) Wing Sahakari Sanstha Maryadit
Vs.
P C. M. C. & Ors.

ORDER BELOW EXH. 54.

(Passed on 21.02.2026)

This is an application filed by defendant no.2 and 3 under Order XXXIX Rule 1 of Code of Civil Procedure for granting of temporary injunction against plaintiff.

2. Called say of plaintiff and they have given their say below Exh.59.

3. Counsel for defendant no. 2 and 3 submitted that, in plaint the suit property which the plaintiff have particularly marked parking space of defendant no.2 and 3. The Exh. 5 was decided and issues also framed. The defendant no. 2 and 3 further submitted that, the plaintiff society have been passed resolution regarding the disputed parking slots dated 07/09/2025 and have decided to demark the parking space as per the Index II of all flat holders. They have no objection in regard to the marking of the slots of rest of the

flat holders, but in regard to the disputed area, they have objection because, if will be alter parking area of defendant no.2 and 3 and they have trying to create new parking area in the service duct area or common area. Hence, they prayed for to restrain the plaintiff to carryout resolution dated 07/09/2025 vide no. 3 for demarcation and marking of parking slots of defendant no.2 and 3 until the suit is decided.

4. Counsel for plaintiff have opposed the application and filed their say at Exh. 59. They submitted that, the application is moved by the defendant no.2 and 3 is false and preferred on incomplete information. They further submitted that, the parking slots of defendant no.2 and 3 are different and there is no connection to the suit property. The plaintiff society have every right to pass resolution and act upon it. The application is not related to the contains of written statement. They have only wants to coloured on the parking slots which have already provided to the members of society. Hence, they prayed for to reject the application.

5. Heard learned counsel Shri. Tiwari for defendant no.2 and 3, learned counsel Shri. Shende for plaintiff and learned counsel Smt. Yadav for defendant no. 1 at length. The following points arise for my determination, I have recorded my findings thereon with reasons as follows :

Sr. No.	Points	Findings
1	Whether the defendant no.2 and 3 have	.. affirmative.

	made out the prima facie case ?	
2	Whether balance of convenience lies in favour of defendant no.2 and 3 ?	.. affirmative.
3	Whether irreparable loss would cause to defendant no.2 and 3 if injunction is not granted?	.. affirmative.
4	What order ?	As per final order.

REASONS

As to Point No. 1 to 3 -

6. All these points are interlinked to each other, therefore, they are taken together for discussion and decision.

7. It is well settled that, for grant of temporary injunction, three factors have to be satisfied which are prima facie case, balance of convenience and irreparable loss.

D) Prima facie case –

Prima facie case does not mean that, the plaintiff should have cent percent case which will in all probability succeed in trial. Prima facie case means that, the contentions which the plaintiff is raising, requires consideration in merit and or not liable to be rejected summarily.

II) Balance of convenience –

It is necessary to compare case of parties, comparative mis-chief or inconvenience which is likely to sue from with holding the injunction will be greater than which is likely to arrive from granting it.

III) Irreparable loss –

The applicant must further satisfy to the Court about the second condition by showing that, he will suffer irreparable injury if the injunction as prayed is not granted, and that there is no other remedy available or open to him by which he can protect himself from the consequences of apprehended injury.

8. Perused application along with record. The suit is filed for declaration and permanent injunction. The Exh. 5 was partly allowed and defendants restrained for obstruction the use of the suit property as parking by the plaintiff. Thereafter plaintiff have demolished wall in partly which is admitted by plaintiff. Thereafter one application is moved by the defendant no.2 and 3 below Exh. 42 for to restrain the plaintiff from demolition parking wall. Therefore, I have decided the application Exh. 42, which came to be allowed and directed the construct parking wall, which was demolished by the plaintiff and also directed to plaintiff society and defendant no. 4 to approach before defendant no. 1 along with all necessary documents and cure the defect in respect of duct and parking area.

9. From the record prima facie I have recorded that, defendant no. 1 PCMC have mentioned duct as a parking, due to over sight. The main dispute between plaintiff and defendants is relating to the construction upon the suit property within the duct/ parking area no.62A, 63A, 51A and 52A from the Northern and Southern side respectively.

10. I think, without compliance of order Exh. 42, plaintiff is trying to coloured area and wants to fixed the parking slots of members of society. Without going into the roots of the matter and compliance the order, there is no need to act and marking the parking slots. Though the plaintiff society passed resolution but, if any matter is pending before Civil Court then, obviously without permission of the Hon'ble Court it is expected from the parties do not alter the suit property by any directions/mode or improve. Therefore, the defendant no.2 and 3 have prima facie case.

11. As per Order 39, Rule 1 of CPC., the temporary injunction may be granted when any property in dispute in a suit is in danger or being wasted damaged or alienated by any party to the suit. It means defendants also have right to prefer an application under O.39 R.1 of CPC. Hence, the balance of convenience is lies in favour of defendant no. 2 and 3, and if the plaintiff will act as per their resolution dated 07/09/2025 then there may be chance of damaged to the property or multiplicity of proceeding. Hence, I answerd point no. 1 to 3 is in affirmative.

As to point no. 4:-

12. As per the above discussion, I answer point no. 1 to 3 in the affirmative, in the result as to point no.4, I proceed to pass following order.

ORDER

- 1) The application (Exh. 54) is hereby allowed.
- 2) The plaintiffs are hereby restrained from to act and carry out the resolution dated 07/09/2025, vide no. 3 for demarcation and marking of parking slots of suit property.
- 3) Costs in cause.

Sd/-xxx

Date: 21/02/2026.

(V. S. Damare)
Civil Judge Junior Division
P.C.M.C. Court, Akurdi, Pune.

CERTIFICATE

"I affirm that the contents of this P.D.F file order are same word for word as per original order.

Name of Stenographer	:-	P. B. Jadhav.
Court Name	:-	Shri. V. S. Damare, (J.M.F.C.) Civil and Criminal Court (P.C.M.C.), Akurdi, Pune.
Date	:-	21/02/2026
Order signed by presiding officer on	:-	21/02/2026
Order uploaded on	:-	24/02/2026