

CNR NO. MHPU100001692025



IN THE COURT OF CIVIL JUDGE (JR. DN.) P.C.M.C. COURT AKURDI, PUNE.	
R.C.S. No. 160/2025	
Sumit Sulinder Pawar	
Vs.	
P.C.M.C. & Ors	

ORDER BELOW EXH. 05.

(Passed on 19/08/2026)

This is an application filed by plaintiff under Order XXXIX Rule 1 & 2 of Code of Civil Procedure for granting of temporary injunction against defendants.

2. The Contention of plaintiff's is as under :-

The plaintiff is son of defendant no. 3. Defendant no. 3 was working as 'Safai Kamgar' in the defendant no. 1 and 2 establishment. Defendant no. 4 is wife of defendant no. 3. Plaintiff having 4 sisters and aged mother (Defendant no. 4). The defendant no. 3 abandoned the 04 daughters and the wife. Hence, he have filed application for grant of maintenance, which was allowed. The maintenance amount was enhanced in Cri. M. A. 38/2021, which was pending before the Hon'ble Family Court, Pune. He have not paid regularly maintenance. Hence, his mother have filed recovery

application. That, during the pending of these litigation, the defendant no. 3 orally agreed to the Hon'ble Court that, after his retirement, he will give the service to his son i.e. plaintiff. But, now defendant no. 3 instead of giving the service to the plaintiff, he is trying to give the service to his nephew and apprehends that, the defendant no. 1 and 2 may inappropriately and illegally grant the service to the nephew of defendant no. 3.

3. Plaintiff further submitted that, he is educated person and passed SY. B.Com from S. P. P. University, Pune. He have responsibilities to look after 04 sisters and mother. The father i.e. defendant no. 3 have got retirement and terminal benefits of more than 40 lakhs rupees. But, he did not give single rupee to plaintiff and his four unmarried daughters and wife also. As per the Laade-Paage Commission report, which have been accepted and published and implemented by the Government of Maharashtra vide GR No. Safai-2018/prakra./46/sa.aa.ka dated 24/02/2023, plaintiff is entitled to got service as per clause 3 of said Government G.R. The plaintiff apprehends that, the defendant no. 1 and 2 will give service to the nephew of defendant no. 3, who is not eligible person and if defendant no. 1 and 2 succeeded in giving the said service, then irreparable loss and damage shall be caused to the plaintiff. Hence, he have filed this suit along-with temporary injunction application for restraining giving service to the nephew of defendant no. 3.

4. After service of summons and notice, defendants No. 1

and 2 appeared through their Advocate and filed written statement cum reply at Exh. 32 and denied some contentions of plaintiff and additionally they stated that, these defendants have not violated any rules and regulations. Plaintiff have not made his four sisters party to the suit. Hence, the suit is bad for non joinder of necessary parties. They have made entries on the application received by defendant no. 3 in his service record. Moreover, he has not taken decision on application submitted by defendant no. 3. Main dispute between plaintiff and other defendants. They are unnecessarily dragged in the litigation. Plaintiff have not prima-facie case. Lastly, they prayed to reject the application with costs.

5. Defendant no. 3 appeared and filed W. S. cum reply at Exh.30. They further submitted that, plaintiff have suppressed some material facts. Plaintiff does not hold any vested statutory or enforceable absolute legal right to claim employment, appointment, service benefit, or any alleged transfer of service, solely on the ground that, he is the biological son of defendant no. 3. He have accepted the relationship.

6. Defendant no. 3 further submitted that, in the year 2006, plaintiff and other family members have not maintained any cordial relationship with defendant no. 3. His nephew Nitish Vinod Pawar, has continuously look after him providing assistance, medical care, personal support, and day-to-day necessities. Therefore, he is the right and lawful person to receive service on behalf of defendant no.

3 after retirement. The defendant no. 3 has nominated his nephew's name and submitted the application and other relevant documents to defendant no. 1 and 2. The plaintiff claims a compassionate appointment, which is not a source of recruitment and cannot be claimed as a matter of inheritance. Hence, he prayed to reject the application with costs.

7. Heard learned counsel for plaintiff Shri. Khalid H. Karnalkar and Shri. Bhapkar for defendant no. 1 and 2, Shri. Lalit Waghmare for defendant no.3 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 plaintiff have made out the prima facie case ?	..Affirmative.
2	Whether balance of convenience lies in favour of plaintiff ?	.. Affirmative.
3	Whether irreparable loss would cause to plaintiff if injunction is not granted?	.. Affirmative.
4	What order ?	As per final order.

REASONS

As to Point No. 1 to 3 -

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

9. 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.

I) 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.

10. Perused record. Suit is filed for declaration and injunction. It is not disputed that, plaintiff is a son of defendant no.3 Sulinder Pawar and defendant no. 4 Sharmila Pawar is mother. It is

also not disputed that, defendant no. 3 was retired in the July-2023, who is worked as 'Safai Kamgar' and it is also admitted by defendant no. 3 that, he have four daughters. It is also gathered from pleadings of both parties that, maintenance proceeding is pending before the Court. Now, plaintiff as a son have come before the Court with the theory that, plaintiff's father i.e. defendant no. 3 wanted to give his service to his nephew by abandoning rights of plaintiff and defendant no. 1 and 2 also apprehended that, they give service to the nephew of defendant no. 3.

11. On this apprehension, counsel for defendant no. 1 and 2 have submitted that, defendant has not taken any decision on the application submitted by defendant no.3. It means after retiring the plaintiff's father the decision in respect of service is pending.

12. Plaintiff have communicated and send letter to the defendant no. 1 and 2 for the inclusion for member of their family in service record of defendant no. 3. Herein case of my hand, the issue is not relating to whose names should be entered or not in the service record. Only issue is who should be given the service after retirement of defendant no. 3. In our State, the Government have passed a resolution dated 24/02/2023, which is latest policy operating while giving the appointment on a compassionate ground to Safai Kamgar. The Government of Maharashtra have issued G. R. Specifically para no. 3 is very important while deciding the claims in respect of service or appointment on compassionate ground. The

para no. 3 is as follows-

३. वारसा हक्कास पात्र ठरणारे सफाई कामगाराचे वारस:-

सफाई कामगाराच्या वारसा हक्क प्रकरणांत पुढीलप्रमाणे एक व्यक्ती वारस म्हणून पात्र ठरेल.

३.१ पती/पत्नी

३.२ मुलगा/मुलगी

३.३ सुन/जावई

३.४ विधवा मुलगी/ बहिण/ घटस्फोटीत मुलगी/ बहिण/ परित्यक्त्या मुलगी/बहिण/अविवाहित मुलगी/अविवाहित बहिण

३.५ सफाई कर्मचारी अविवाहीत असल्यास त्याचा "सख्खा भाऊ/सख्खी बहिण"

३.६ नात/नातू

३.७ वरील पैकी कोणीही वारस उपलब्ध नसल्यास अथवा सदर वारसापैकी कोणीही सफाईचे काम करण्यास तयार नसल्यास सफाई कामगाराचा तहहयात सांभाळ करण्याची लेखी शपथपत्राव्दारे हमी देणारी संबंधित "नामनिर्देशित व्यक्ती".

13. While scrutinizing the above dated G. R., then it shows that, as a heir the entry or name of nephew is nowhere mentioned. Moreover, the nephew is not come under the purview of definition 'family'. It is admitted fact that, plaintiff is a son of defendant no. 3, who is now retired. As per the Laade-Paage Commission, the husband/wife, thereafter son/daughter etc. in the consecutively the person are entitled for the service after the retirement of person. Considering, all these fact it shows that, as a son he have first right to claim rather than nephew. Hence, he have prima-facie case and balance of convenience also lies in his favour and if the service will

be given to the nephew then obviously irreparable loss may be caused to plaintiff. Hence, I answered point no. 1 to 3 in affirmative.

As to point no. 4:-

14. 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. 5) is hereby allowed.
- 2) The defendant no. 1 and 2 is hereby restrained for giving the service/employment to the nephew of defendant no. 3 till the deciding the case on merits.
- 3) The defendant no. 1 and 2 have liberty to act on the application of plaintiff or any other person and shall conduct objective scrutiny of those claims expeditiously in-accordance-with Government Resolution dated 24/02/2023 and directions given by the Hon'ble High Court, Bombay Bench at Aurangabad in Writ Petition 3204/2023.

Dated: 19/08/2026.

Sd/-xxx
(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	:-	Gaurav A. Bobade (Grade III)
Court Name	:-	Shri. V. S. Damare, Civil Judge Junior Division, (P.C.M.C.), Court, Akurdi, Pune.
Date	:-	19/08/2026.
Order signed by presiding officer on	:-	19/08/2026.
Order uploaded on	:-	19/08/2026.