



ORDER BELOW EXH. No. 5 IN R.C.S. No. 192/2022

[Suresh Bhanudas Korahade Vs. Baapu Bhanudas Korahade & Ors.]
(Passed on 13th March, 2026)

This application is moved by plaintiff under Order XXXIX rule 1 and 2 of the Code of Civil Procedure.

DESCRIPTION OF SUIT PROPERTY :-

02. As described in para no.01 of the plaint and this application (Hereinafter referred as 'suit property' for brevity).

PLAINTIFF'S STORY :-

03. As per plaintiff, the suit property was purchased by him vide registered sale deed no. 2478/2017 dtd.23.05.2017 from Shankar @ Ambika Daulat Pasalkar. Since the execution of sale deed, plaintiff is in peaceful possession and enjoyment of the suit property. But defendant no. 1, 3 and 4 who are adjacent land owners of Gat no. 175 started causing obstruction to plaintiffs possession on the ground of encroachment. Defendants tried to get their lands measured through T.I.L.R. without issuing notice to the adjacent land owners. Therefore plaintiff objected to this measurement and proposed the joint measurement of all the adjacent properties i.e. Gat no. 172/A, 173, 174/1, 174/2 and 175. Even the separate measurement map of these properties is not prepared by the revenue authority till date. Thus without the joint measurement of all this adjacent properties along with suit property, the issue of encroachment cannot be resolved. But due to objection of plaintiff to the measurement of defendant, they have started causing obstruction to plaintiffs possession. Thus, a cause

of action arose to file this suit for injunction as well as preparation of separate map of the suit property and other adjacent properties.

DEFENDANT'S DEFENCE :-

04. Defendant nos. 1 and 4 have filed say at Exh. 28 and resisted this application on the ground of being false, frivolous and not tenable in the eyes of law. Further, as per defendants, plaintiff have encroached upon the Gat no. 175 of defendant and in order to cover his encroachment and avoid giving of encroached land, have caused obstruction to measurement as well as filed this false suit. Thus this suit is not maintainable. Hence, the application deserves to be rejected.

05. Heard learned Advocate for the plaintiff and defendants at length. I have gone through documents available on record.

POINT OF DETERMINATION :-

06. The following points arise for determination of this application and I have recorded my findings thereon along with reasons.

<u>SR. No.</u>	<u>POINTS</u>		<u>FINDINGS</u>
1.	Whether plaintiff proves prima-facie case ?	...	<u>Yes.</u>
2.	Whether balance of convenience tilts in favour of plaintiff ?	...	<u>Yes.</u>
3.	Whether plaintiff will suffer irreparable loss if injunction is not granted ?	...	<u>Yes.</u>
4.	What order ?	...	<u>As per the Final Order.</u>

REASONS

AS TO POINT Nos. 1 TO 3 :-

07. Considering the nature of the contentions, all points are required to be considered together.

08. Perused the record in detail. Suit is for injunction and preparation of separate map of suit property and the adjacent properties. The ownership of plaintiff over the suit property i.e. Gat no. 174/1 admeasuring 00 H 80 R is not disputed by defendants. Even the ownership of defendants over adjacent Gat no. 172, 173, 174/2 and 175 is not disputed fact. The only issue in dispute is of encroachment. Defendants have come with a specific case that plaintiff have encroached upon his land. But no counter-claim is filed. Plaintiff also admitted that defendants try to measure their property and plaintiff had objected to this measurement. As the issue of encroachment is involved, so by joint measurement of all the adjacent properties it can be resolved. For that even the appointment of court commissioner was done and its report is at Exh. 31. This report also prima facie shows the encroachment, but yet the evidence is not led and correctness of this report is not proved by examining the alleged Court Commissioner. This can be done only during the course of trial. But till the completion of trial, due to issue of encroachment involved between the parties, obstruction is being caused. Thus plaintiff prima facie proves his case. As the ownership of plaintiff over the suit property is not disputed, so if defendant forcefully dispossess plaintiff in order to take back the encroached portion without following due process of law, irreparable loss will be caused to plaintiff and even the purpose of this suit will get frustrated. Thus balance of convenience

tilts in favour of plaintiff. In order to preserve the nature of suit property and maintain peace between the parties it is important to maintain the status quo of the suit property till final decision of this suit. therefore passing following order :-

ORDER

1. Application is allowed accordingly.
2. Both plaintiff and defendant nos. 1, 2 and 4 are directed to maintain status quo in respect of suit property till final decision of this suit.
3. Suit shall proceed accordingly.
4. Cost in main cause.

Date :- 13.03.2026.

[**Smt. S. A. Virani**]
Jt. C.J.J.D., Daund, Dist. Pune.

CERTIFICATE

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

Name of Steno	:-	S. A. Kanaki
Name of the Court	:-	Smt. S. A. Virani, Jt. C.J.J.D., Daund, Dist. Pune.
Order date	:-	13.03.2026.
Order signed by the Presiding Officer on	:-	13.03.2026.
Order uploaded on	:-	13.03.2026.