

CNR No.
MHPU33-002007-2025
MHPU330020072025



1 Misc. Civil Appeal No. 59/2025
Judgment

Presented on :- 16.11.2024
Registered on :- 16.11.2024
Decided on :- 20.07.2026
Duration :- 01Y. 08Ms. 04Ds.

IN THE COURT OF DISTRICT JUDGE -1, JUNNAR
DIST. PUNE

(Presided Over by S.B.Shelar)
Miscellaneous Civil Appeal No.59/2025
Exhibit No.

Bharat Shantaram Kabadi

Age: 71 years Occ:

R/o. Padali, Kabadwadi, Tal. Junnar, Dist. Pune

Appellant

VERSUS

1. STATE OF MAHARASHTRA

2. Collector, Pune

3. Tahsildar, Junnar, Dist. Pune

4. Circle Officer, Junnar

5. Pooja vijay raut

Age: 41 years, Occ: Home maker

R/o. Borate Aali, Moshi

Tal-Haveli, Dist-Pune.

6. Rajendra Sopan Mahabare

Age: 35 years, Occ: Agriculturist

r/o. Khorewasti, Agar

Tal. Junnar, Dist. Pune

7. Bandu Sadashiv Karpe

Age: 50 years, Occ: Contractor

R/o. Prabhu Aali, Kalyan peth

Junnar, Tal. Junnar

Dist. Pune

CNR No.
MHPU33-002007-2025

2

Misc. Civil Appeal No. 59/2025
Judgment

8. Milind Rajaram Zagade

Age: 52 years, Occ: Contractor
Prabhu aali, Kalyan peth
Junnar, Tal. Junnar, Dist. Pune

9. Vinay Anant Wabale

Age: 50 years, Occ: Business
Bodakenagar, Junnar
Tal. Junnar, Dist. Pune

10. Santosh Sitaram Tamboli

Age: 52 years, Occ: Agriculturist
Vadgaon Sahani, Tal. Junnar
Dist. Pune

11. Ranbahadur Sakharam Kabadi

Age: 75 years, Occ: Pensioner and Agriculturist
Kabadwadi (Padali), Tal-Junnar
Dist-Pune

.. Respondents

Claim:- Appeal against order dtd. 30/09/2025
below Exh. 60 in Regular Civil Suit
No.263/2019

Appearance :

Ld. Adv. for the Appellant : Shri. L. S. Nikam
Ld. Adv. for the Respondent nos.6 to 10 : Shri. S. S. Nikam

J U D G M E N T

(Delivered on this 20th day of July, 2026)

1] The present appeal is directed against the order dated 30th September, 2024 passed by the learned Trial Court below Exhibit 60 in Regular Civil Suit No. 263 of 2019.

2] By the said order, the learned Trial Court partly allowed the application preferred by the plaintiff and restrained defendant Nos. 7 to 10 from alienating the suit property or creating any third-party interest therein. The grievance of the plaintiff in the present appeal is confined to the refusal of the learned Trial Court to grant any interim relief in respect of possession of the suit property under the impugned order.

3] Shri L. S. Nikam, learned counsel appearing for the appellant, submitted that the suit property had been sold on more than one occasion by the defendants, compelling the plaintiff to file the application at Exhibit 60 before the learned Trial Court. He further contended that defendant No. 6 had attempted to take forcible possession of the suit property and had, in fact, succeeded in doing so. Consequently, the plaintiff was constrained to institute Regular Civil Suit No. 1 of 2008 under Section 6 of the Specific Relief Act. It was further submitted that the plaintiff had also instituted Regular Civil Suit No. 53 of 2008 in respect of the same property.

4] Learned counsel argued that, in view of the multiple transactions concerning the suit property, the application at Exhibit 60 was necessitated. The learned Trial Court, having accepted the plaintiff's prima facie case, granted an injunction restraining the defendants from alienating the suit property or creating any third-party interest therein. However, it erred in declining to grant interim relief regarding possession.

5] It was further submitted that defendant No. 6 had filed an application before the revenue authorities wherein she had admitted that she was not in possession of the suit property. According to the learned counsel, this admission completely belies her claim of possession. He also contended that defendant No. 6 had signed documents in English and, therefore, her plea of illiteracy was untenable.

6] Lastly, learned counsel submitted that the defendants had forcibly dispossessed the plaintiff and were part of a land mafia. According to him, criminal cases are pending against the defendants, and defendant No. 6 has also been convicted for the offence punishable under Section 394 of the Indian Penal Code. In these circumstances, it was argued that the learned Trial Court ought to have granted interim relief restoring possession of the suit property to the plaintiff. It was, therefore, prayed that the impugned order be set aside to that extent and the appeal be allowed.



7] Per contra, Ld. Advocate Shri. S. S. Nikam submitted that the suit property is incorrectly described in the suit. He further submitted that the interim relief is sought belatedly and it has been correctly rejected by the Ld. Trial Court. He further submitted that in respect of possession of the suit property, already another suit is pending adjudication before the competent Court. He further submitted that sale deed dated 16/08/2012 has not been challenged till date. He further submitted that plaintiff has failed to prove possession on the suit property and hence, no relief should have been

granted to him. He lastly submitted that the suit is now fixed for issues and granting possession would cause serious prejudice to the respondents.

8] Upon hearing rival submissions, the following points arise for my consideration.

Sr. No.	Points	Findings
1.	Does the plaintiff show that he was entitled for interim relief of possession as prayed before Ld. Trial Court ?	No.
2.	Does the impugned order requires interference by this court?	No.
3.	What order?	Appeal is dismissed.

REASONS

As to Point Nos. 1 to 3:

9] The perusal of the impugned order shows that it was partly allowed in favour of the plaintiff. By the said impugned order, the defendant nos. 7 to 10 were restrained from alienating or creating any third party interest in suit property till decision of suit. It is an admitted position that the plaintiff has also filed RCS No. 1/2008 for re-possession of the property under section 6 of the Specific Relief Act.

10] The suit property in present appeal is as under:

CNR No.
MHPU33-002007-2025

6 Misc. Civil Appeal No. 59/2025
Judgment

1 H 02 R, pot kharaba 0.12.83 R out of 13 H 15 R
pot kharaba 0.00.27R in block no. 173 of village Padali
(Kabadwadi), Tal. Junnar, Dist. Pune alongwith Mango and
chickoo trees therein.

11] The Ld. Trial Court has observed in the impugned
order that the plaintiff has pleaded in para 5 of the injunction
application that the respondents have illegally taken possession
of the suit property from them. Similar pleadings have been
made by the plaintiffs in para 5 of their plaint. The plaintiffs
have further pleaded that due to the said illegal possession of
the suit property by the defendants/respondents, they were
constrained to file RCS No. 1/2008 for re-possession under
section 6 of Specific Relief Act before the concerned Court and
also RCS No. 53/2008 for mandatory injunction.

12] On perusal of the plaint in RCS No. 1/2008, it
shows that the suit property is 16 Acres 16 R from block no.
173. If the said suit property description is compared with the
suit property in the present case, they appear to be similar.
Further, the said RCS No. 1/2008 has not been decided finally
by the trial Court. The said suit RCS No. 1/2008 show that the
suit property was in possession of one of the defendants.
Hence, it is an admitted position that the possession since 2008
was with the defendants. Whether the said possession was
illegal or illegal is yet to be decided by the competent Court.
Under such circumstances, considering the possession of 16

years, as per the plaintiffs, with the defendants, the refusal of the Ld. Trial Court to grant interim possession to the plaintiffs appears justifiable.

13] Once the plaintiffs have admitted that possession was with the defendants since 2008 and litigation in respect of same are pending before competent Courts, then the Ld. Trial Court couldn't have circumvented the said suits and granted interim possession to the plaintiffs. Such an approach by the Ld. Trial Court could have virtually decided RCS No. 1/2008 and RCS No. 53/2008 filed by the plaintiffs and pending adjudication. In such circumstances, the approach of the Ld. Trial in not granting interim possession to the plaintiffs, cannot be faulted with. The legality or otherwise of the possession of the defendants would be subject to outcome of trial.



14] In view of the above findings, this Court does not find any infirmity or perversity in the impugned order. The said order is in accordance with settled principles of law. The plaintiffs have failed to show any perversity in the said impugned order. Hence, the present appeal being devoid of merits, is liable to be dismissed with the following order-

ORDER

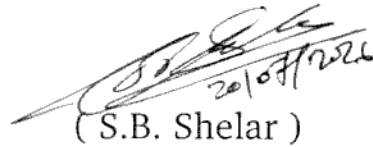
- 1] Misc. Civil Appeal No. 59/2025 is dismissed.
- 2] No order as to costs.
- 3] Interim/ad-interim order if any stands vacated.

CNR No.
MHPU33-002007-2025

8 Misc. Civil Appeal No. 59/2025
Judgment

- 4] The Record and Proceedings, if any, be sent back to the Ld. Trial Court.
- 5] Inform Ld. Trial court accordingly.
- 6] Appeal is disposed in above terms.

(Dictated and pronounced in open Court.)



(S.B. Shelar)

District Judge -1
Junnar, Dist. Pune

Date:-20.07.2026