



MHRG010008982014	 	Presented on	: 15/03/2014
		Registered on	: 15/03/2014
		Decided on	: 20/04/2026
		Duration	: Y M D 12 01 05

BEFORE THE PRINCIPAL DISTRICT JUDGE, RAIGAD-ALIBAG

Presided over by R. D. Sawant

Misc. Civil Appeal No. 26/2014

Exhibit No.:

01. **Mumbai S. E. Z. Ltd. Through**)
Authorized signatory)
Shri. Nilesh Madhukarrao Kadu)
Age :- 37 Yrs.,Occu.- Service,)
02. **Mr. Subhash Vitthal Gharat**)
Age :- 48 Yrs.,Occu.- Service,)
Both R/o. At- Plot No. 68,)
Jay Towers, Sector -15,) Appellants
C.B.D. Belapur, Navi Mumbai) (Ori.Defendants)

V/s.

Smt. Mathurabai Laxman Patil)
Age :- 60 Yrs.,Occu.- Agriculture,)
R/o. - At & Post – Sonkhar, Pen,) Respondent
Tal. Pen, Dist Raigad) (Ori. Plaintiff)

**Appeal against the order Dtd.
03.02.2014 passed below Exh. 5
by Civil Judge S. D., Alibag in
Spl. Civil Suit No. 62/2013.**

Appearances :-

Advocate for Appellants

- Shri. S. S. Bartake with
Shri. S. Y. Bartake

Advocate for Respondents

- Smt. Ashwini Holkar with
Shri. P. M. Thakur**JUDGMENT****(Delivered on 20.04.2026)**

Order below Exh. 5 dtd. 03.02.2014 in Spl. Civil Suit No. 62/2013 passed by then Civil Judge S. D., Alibag is under challenge in the present Misc. Civil Appeal under Order 43 Rule 1 of CPC whereby Exh. 5 has been allowed and temporary injunction order is passed in the nature of directions to the Defendants for not creating third party interest in respect of the suit property.

02. Appellants are original Defendants whereas Respondent is original Plaintiff and hereinafter they are referred as per their original status in the suit.

03. Ld. Adv. Shri. S. S. Bartake adverting on clause 7 of order dtd. 30.11.2006 issued by Collector submitted that, in the event if the acquisition of the land under notification could not be made by the Government or in the event the land is excluded from the notification of acquisition then in these two contingencies the defendant are empowered to purchase property directly from the farmer. He has also drawn my attention to the letter dt. 16.12.2009 issued by SLAO, Kal Project No.2, Mangaon whereby the concern SLAO has disclosed

that the land shown under notification issued under section 6 of the Land Acquisition Act, has been lapsed and submitted that the defendant No. 1 has rightly got executed the registered agreement for sale and irrevocable power of attorney from the plaintiff, on the basis of which the suit sale deed came to be executed in favour of defendant No. 1. Ld. Adv. Shri. Bartake blamed Collector, Alibag on account of imposing the redundant condition which is in the nature of permitting defendant to execute agreement for sale only and further restraining from executing registered sale deed. It is contended that imposing such condition by the Collector, Alibag is illegal as Sec. 12 of the Maharashtra Project Affected Persons Rehabilitation Act, 1999 does not enjoin the Collector to impose such condition. It is further claimed that by virtue of possession receipt annexed with the conveyance deed, the possession of suit property is delivered to defendant No. 1 and plaintiff has no concern with the suit property and that the suit Sale-deed is in consonance with clause 7 of order of The Collector dt. 30.11.2006.

04. Ld. Adv. Smt. Ashwini Holkar for Respondent has taken me through plaint and copy of registered Sale-deed dt. 22.02.2010 alongwith copy of irrevocable power of attorney and copy of agreement for sale and copy of 7/12 extract in respect of the suit property, the order of Collector dt. 30.11.2006, letter dt. 16.12.2009 issued by SLAO, copy of order passed by Circle Officer, Hamrapur, Tal. Pen, Copy of order passed by SDO, Alibag, Panchnama drawn by Revenue Official

in respect of the compensation paid on account of damage cause to the suit property. She further submits that the Ld. CJSD appreciating contentions raised before it in the light of arguments made before it passed impugned order dt. 03.02.2014 and hence requires no interference at the hands of this court.

05. Perused the plaint, written statement, Exh. 5, say of Defendant and the documents made available by both sides. Following points arise for my consideration and I have recorded my findings thereto for the reasons thereon as under -

Sr. No	Points	Findings
1.	Does Plaintiffs prove the prima-facie case coupled with balance of convenience and factor of irreparable loss ? Yes.
2.	Whether impugned order requires interference by the hands of this court ? No.
3.	What Order ?	... As per Final Order.

:: REASONS ::

As to Point No.1 :-

06. It could be seen from Clause 6 of the order dt. 30.11.2006 issued by The Collector, Alibag, the said permission issued by the collector was in respect of executing the registered agreement for sale and the power of attorney. Said clause further provides that, said permission could not be used for executing registered sale deed. The said order dated 30.11.2006

issued by Collector, Alibag thus reveals that it was for the limited purpose of executing agreement for sale and it was further binding upon defendant to give rehabilitation package to the persons whose land has been acquired. Admittedly, neither the rehabilitation package was given by defendant nor the consent awards were passed. Perusal of the letter of SLAO dated 16.12.2009 shows that despite making repeated demands the documents like agreement for sale, power of attorney etc. in respect of 9 villages including the suit property have not been furnished by the defendant to SLAO concern and therefore, not a single consent award could be formulated under section 11(2) of the Land Acquisition Act, 1894. For this reason only the SLAO has lapsed the land which was notified under section 6 of the Act.

07. From the abovesaid discussion it is evident that the consent awards could not materialized for want of supplying necessary documents to the SLAO. Had the defendant would supply the relevant and requisite records then the consent award could have been formulated and there was no propriety to lapse the land which was acquired vide notification under section 6 of the Act. Therefore, it appears that the defendant is taking undue advantage of its own wrong of not supplying the requisite records and on account of lapse of land under notification, executed the sale deed. The defendant is primarily responsible for the lapse and therefore, it is quite unjustified to allow the defendant to take benefit of its own wrong. There is

nothing on record to substantiate that the defendant had written letter to Collector, Alibag or other officers asserting the compliance made in respect of the requisite documents. Even there is no recital in the sale deed that on account of excluding the land from notification or the acquisition could not be made by the Government and therefore, there is no justification on the part of defendant to rely upon said clause No. 7 from the order of Collector dt. 30.11.2006. As per clause 'F' of the registered agreement for sale it is given that in the event of breach of any terms and condition of agreement, the plaintiff shall refund entire consideration amount with interest.

08. From the submissions of both the parties, it is evident that both parties are asserting their rival possession over the suit property. The defendant by adverting to the possession receipt executed at the time of registered conveyance claiming possession over suit property. Per contra, the plaintiff relied upon the certified copy of 7x12 extract and panchanama drawn by revenue authority in respect of the compensation paid to the farmers on account of damage caused to the lands due to heavy rains, to substantiate their possession over the suit property.

09. On perusal of the certified copy of 7x12 extract on the date of filing suit till date, the name of plaintiff is appearing in the ownership and possession column in respect of the suit property and it is further seen that plaintiff is cultivating crops therein. In other rights column of said 7x12 extract, there is entry in respect of encumbrance of the sale amount paid to the

plaintiff. Admittedly, the finding given by Circle Officer has been confirmed by Sub Divisional Officer regarding the cancellation of mutation entry which is sanctioned pursuant to the execution of deed of conveyance. Thus, these revenue entries substantiating the possession of plaintiff has presumptive value in the eyes of law and the same are presumed to be correct unless set aside by following due procedure of law. Further the plaintiff being in possession over suit property, will suffer comparative hardship in the event the order of injunction is refused to him. Contrary to this, the defendant will not be prejudiced in as much as their interest have been duly secured by taking note of the encumbrance regarding payment made, in the other rights column of 7x12 extract.

10. In view of forgoing discussion, I conclude that the plaintiff has proved prima facie case coupled with balance of convenience and factor of loss or injury, as alleged. Hence, finding of point No. 1 is answered in the affirmative accordingly.

As to Point no. 2 :-

11. The Trial Court has rightly and properly appreciated the pleadings and all the documents placed on record and rightly recorded that the prima facie case coupled with balance of convenience and factor of loss or injury, in favour of Plaintiff. Therefore the impugned order dt. 03.02.2014 passed by Civil Judge S. D., Alibag does not require interference by this Court. Hence, this point is answered in negative.

As to Point no. 3 :-

12. In view of the abovesaid discussion in answer to point nos. 1 and 2 above, I pass the following order.

:: ORDER ::

1. Misc. Civil Appeal no. 26/2014 is hereby dismissed.
2. Impugned order dt. 03.02.2014, passed by Ld. Civil Judge S. D., Alibag, in Spl. Civil Suit No. 62/2013 is hereby confirmed.
3. No order as to costs.

sd/-

Alibag.
Date :-20.04.2026

(R. D. Sawant)
Principal District Judge
Raigad-Alibag.

CERTIFICATE

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

Name of Stenographer : T.P.Mhatre(Grade- III)

Court : Principal District Court,
Raigad-Alibag.

Date of Order/Judgment : 20.04.2026.

Order/judgment signed by
the Presiding Officer on : 20.04.2026.

Order/judgment uploaded on: 20.04.2026.