

Order below Exh.14 in Civil.R.C.S.No.10/2026

Ashfak Abdulla Chogale etc 1 Vs Kalimuddin Ahmad Chogale

CNR No. MHRT050004422026

(Dated 05.03.2026)

This is a suit for declaration & injunction. Plaintiff through present application is seeking relief of *status quo* against defendant, restraining him from making any construction over the suit properties S.N794 and S.N793 till the decision of application for interim injunction (Exh. 05).

2. Ld. Advocate for plaintiff argued that, he is the owner of the suit property bearing S.N794 and S.N793. However, the name of Ahmad Latif Chogale (defendant) is recorded to the S.N793, defendant is not the owner of the said property bearing S.N793. House property bearing no.1109 is situated over the suit property. The said house property belonged to the mother of the plaintiff namely Maryabibi Shae Mirkar. After, her demise the suit mother of plaintiff being the only legal heir, became owner of the suit property. However, Ahmad Latif Chogale got recorded his name to S.N793 and also obtained its separate house property number as 1109-A. Further, also obtained subsidy under Gharkul Yojna and has started construction over S.N793, house property bearing no.1109-A. Further, contended that defendant is not the owner of house property no.1109 and 1109A.

3. He further argued that, defendants appeared in the matter and sought time to file their reply to the application for interim injunction & written statement. The proceedings will take considerable time to conclude. However, in the mean time, there is likelihood that defendant may complete the construction of house no.1109A and which eventually will cause irreparable loss and damage to the plaintiff.

Hence, *status quo* be granted in respect of the suit property till decision of application at Exh. 05 for interim injunction.

4. Ld. Advocate for defendant filed his say at Exh.15 and has strongly resisted the same. He argued that, the plaintiff have suppressed material facts and have not approached the Court with clean hands. Plaintiff alone is not the legal heir of deceased Maryabibi Shae Mirkar. Defendant also has the right over the suit property. Defendant is already constructing over S.N 793 because the said property is in the possession of defendant.

5. He further argued that, last last many years the house property no.1109-A is in the possession of defendant. He has produced the house assessment extracts to show the same. Hence, prayed for rejection of the application.

6. Perused the application, say filed and the record. Heard both sides.

7. Further perusal of pleadings reflect that, the property bearing S.N 793 is in the possession of defendant. The said fact is also admitted by the plaintiff. Further on perusal of the property card produced by plaintiff at Exh.7/1 it appears that name od Ahmad Latif Chogale is recorded. Further on perusal of the assessment extract at Exh.7/4 it appears that the house property no.1109-A is in the name of Klmuddin Ahmad Chogale(defendant).

8. Further, on perusal of the certified copy of the RCS No.27/1987 it appears that the suit property is ancestral property and prima facie the defendant also has right in the suit property. Per contra it appears that plaintiff is claiming exclusive ownership over the suit property. This itself shows that plaintiff has not come with clean hands before Court. plaintiff who acts unfairly, dishonestly, or suppresses

material facts cannot seek equitable relief. Further, it nowhere reflects any eminent or instant threat to possession of plaintiff. Plaintiff has not brought on record any evidence to show that the defendant has no right in the suit property and he is exclusive owner of the suit property.

9. Plaintiffs in the instant application alleged that, there is possibility of defendants making construction over the same. However, on perusal of record it appears that prima facie the defendant has right, title and interest in the suit property. Further, on perusal of the house assessment extracts produced by defendant at Exh.20, it appears that defendant is in the possession of S.N793 since 2002, therefore, it is necessary to protect his long settled possession.

10. Considering the reasons mentioned above, as defendants appeared in my view, they need to be given reasonable time to file their reply to the application at Exh. 05. Thereafter, the application by plaintiff seeking interim relief (Exh. 05) can certainly be decided. However, plaintiff failed to demonstrate any over act on the part of defendant regarding the suit property. Further, the exact status of the suit property sought to be maintained as of today is also not clear.

11. Therefore, for want of any compelling or exceptional circumstances to grant any *status quo*, I am not inclined to allow the present application at this stage. Accordingly, I proceed to pass following order :

ORDER

1. The application is hereby rejected

Place : Dapoli.
Date : 05.03.2026.

Sd/-***
(P. S Warke)
Jt. Civil Judge Junior Division,
Dapoli.

CERTIFICATE

I affirm that the contents of this PDF file order are same words as per original order.

Name of Clerk	: Shri.R.R.Patil
Court Name	: Jt. C.J.J.D. & J.M.F.C., DAPOLI.
Date of Order	: 05/03/2026
Order signed by P.O. on	: 05/03/2026
Order uploaded on	: 06/03/2026