

CNR NO. MHRT090000532020 	<u>IN THE COURT OF CIVIL JUDGE</u> <u>JUNIOR DIVISION LANJA, AT</u> <u>LANJA</u> REGULAR CIVIL SUIT NO. 11/2020 Satish Shankar Rajadhyaksha Vs. Shobhana Ashok Rajadhyaksha etc.
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ORDER BELOW EXH. 80

Perused the application. This is an application for temporary injunction.

02. Defendants No. 1 to 5 filed this application contending that this suit is against them for the relief of partition. As per their further contentions, plaintiff and defendants No. 6 to 26 reside in Mumbai and they have not cultivating at Mauje Zapde. Defendants No. 1 to 5 are cultivating suit property Gat No. 482.

03. Defendants No. 1 to 5 further contended that defendants No. 11 to 14 have sold out suit property Gat No. 7 by registered sale-deed No. 602/2023, dated 18/05/2023 illegally and trying to sell out other properties without taking permission from Court to sell pending this litigation. Because of such act of defendants No. 11 to 14, there will be complications in the suit and hence, defendants No. 1 to 5 filed this application for injunction.

04. On the other hand, defendants No. 11 to 14 filed their say at Exh. 81 and opposed the application contending

that defendants No. 1 to 5 have given Gat No. 482 to one Chavan for use and cultivation, without taking permission from co-sharers. It is further contended that defendants No. 11 to 14 have sold out their share to one Mithilesh Desai and there is no legal bar to sell such undivided share. Making these contentions, he prayed to reject the application.

05. The plaintiff filed the purshis at Exh. 83 admitting say of defendants No. 11 to 14.

06. Heard Ld. Advocates of both parties at length. Perused the record minutely.

07. In view of these rival pleadings of both parties and argument advanced on their behalf, following points arise for my determination for deciding this application and I have recorded my findings against each of them for the reasons stated below :-

NO.	POINTS	FINDINGS
1	Whether defendants No. 1 to 5 prove a <i>prima-facie</i> case?	No.
2	Whether the balance of convenience is in favour of defendants No. 1 to 5?	No.
3	Whether defendants No. 1 to 5 will suffer irreparable loss if injunction is not granted?	No.
4	What Order?	As per final order.

REASONS

08. Defendants No. 1 to 5, plaintiff and defendants No. 11 to 14 have produced some documents on record in present suit. Perused all these documents minutely. I discuss those documents at necessary instances.

AS TO POINTS NO. 1 TO 3 :-

09. These all three points are inter-linked with each other. Hence, in order to avoid repetition of facts and evidence, I discuss all these points together.

10. The admitted position is the suit is for partition and separate possession. None of the parties are claiming that the particular property is a self-acquired property. The suit is pending since 2020. There are plaintiff and 26 defendants. The relationship between the parties is not in dispute.

11. Now, by filing this application, defendants No. 1 to 5 are contending that defendants No. 11 to 14 are likely to make an alienation of their property. Now, it is the contention that Gat No. 7 is sold out without effecting partition by metes and bounds, it will create unnecessary complications for effecting the partition. According to them, injunction be granted against plaintiff and defendants No. 11 to 14 for alienation.

12. As against this, it is the contention of plaintiff and defendants No. 11 to 14 that they have every right to sell their respective undivided shares, even though the suit is pending before the Court. Defendants No. 1 to 5 produced copy of sale-deed between Mithilesh Desai and Ganesh Rajadhyaksha etc. along with documents at Exh. 93 (Exh. 93/3 – proceeding before Talathi, Majal, Taluka Lanja of Ferfar No. 1775). What it may be, it is to be noted here that the legal position is the person can sell his undivided share at any time. But, the person to whom property is sold out is

always be 'a stranger' and his rights are limited only to creation of right, but not of joint possession.

13. In partition suit, all persons are plaintiffs and all persons are defendants. In such circumstances, even if undivided share is sold out, then such a transaction will not make any kind of disturbance till the partition is effected by metes and bounds.

14. Considering settled legal position, it is clear that person can sell his undivided share in the property. However, purchaser has only remedy as per Section 44 of Transfer of Property Act. The purchaser has no right to joint possession. Thus, at this interim stage, taking into consideration all above discussion, it is observed that the defendants No. 1 to 5 failed to prove points of *prima-facie* case, balance of convenience and irreparable loss in their favour. Hence, I answer points No. 1 to 3 in negative.

AS TO POINT NO. 4 :-

15. Taking into consideration above all discussion, in answer to point No. 4, I pass following order:-

ORDER

01. The application is rejected on following conditions -
 - a. If property is sold out, which is subject-matter of the suit (suit property), then the party who selling the property may sell at his own risk with full knowledge that such alienation will not affect to the joint possession or joint nature of suit property and possession.

- b. The person who would be the purchaser shall acknowledge that he shall be a stranger and therefore, no possessory right will be gained to him. Only he will be an owner without possession.

02. Both parties shall bear their own costs.

Date:07/05/2026
Place: Lanja.

(S. R. Joshi)
Civil Judge Junior Division.
Lanja.

CERTIFICATE

I affirm that the contents of this pdf file Order are same words as per original Order,

Name of the Stenographer: S. D. Chavan

*Court Name: Civil & Criminal Court, Lanja,
Dist.Ratnagiri,*

Date of decision : 07/05/2026.

Judgment/Order signed by P.O.on : 07/05/2026.

Judgment/Order uploaded on : 07/05/2026.