

**Order passed below Exh. No. 05
in R.C.S.No. 63/2026**

Heard Shri. U.B.Kulkarni, learned Advocate for the plaintiff.

2. Read the plaint, application for temporary injunction and affidavits filed in support of the application for temporary injunction.

3. Perused the documents.

4. The plaintiff has instituted the present suit seeking permanent and mandatory injunction. The plaintiff claims to be a co-owner and in joint possession of the suit property to the extent of one-half share. It is further contended that no partition has taken place between the plaintiff and the defendant. The plaintiff has produced the 7/12 extract of the suit property, which reflects his name as one of the permanent tenants.

5. The plaintiff has alleged that the defendant has brought construction material on the suit property. The photographs placed on record prima facie depicts that the defendant is intending to commence construction over the suit property. The proposed construction is yet to begin. The

plaintiff states on affidavit that no partition has taken place between the co-tenants.

6. If, by the time notice is served upon the defendant, he succeeds in raising construction over the suit property, the very purpose of the present application would be defeated. Moreover, the defendant may subsequently claim equitable rights in respect of such construction at the time of partition. Therefore, any delay in granting ad-interim relief would frustrate the object of the application.

7. The plaintiff has made out a prima facie case. The balance of convenience also lies in favour of the plaintiff. If the defendant is not restrained at this stage, the proposed construction may seriously prejudice the rights of the plaintiff and the very purpose of the application would be frustrated. Irreparable loss and injury would be caused to the plaintiff, as such construction may curtail his right to peacefully enjoy and use the suit property. Therefore, it would be just and proper to restrain the defendant from carrying out any construction over the suit property till the next date of hearing. Hence, the following order:

	<u>ORDER</u>
1.	Issue Ex-parte temporary injunction restraining the defendant from doing any construction over the suit property, till next date.

2.	Issue show cause notice to the defendant as to why ex-parte injunction should not be continued till further order or specified time, returnable on 08.06.2026.
3.	Special bailiff and Emergent process is allowed, if required.
4.	The plaintiff shall comply with the provisions of Order 39 Rule 3(a) of C.P. Code.
	(Pronounced and dictated in open Court.)

Sd/-

Place : Malvan
Date : 01/06/2026

M.K.Fakih
Civil Judge J.D. Malvan.