



Presented on : 22/01/2021  
Registered on : 22/01/2021  
Decided on : 23/06/2026  
Duration Yrs Ms. Ds.  
05 05 01

**IN THE COURT OF CIVIL JUDGE JUNIOR DIVISION,**  
**DEOGAD, DIST- SINDHUDURG.**

(Presided over by Shrikant S. Pachandi)

**Regular Civil Suit No. - 8/2021**

**Exh. No. 51**

CNR No. - MHSI090000372021

Ganpat Shankar Ghadi (**Deceased**)

His legal heirs

1) Sarswati Ganpat Ghadi (**Deceased**)

Age - 65 yrs., Occu.- Nil

2) Ankush Ganpat Ghadigaonkar

Age - 45 yrs., Occu.- Agriculture and Service

3) Vinayak Ganpat Ghadigaonkar

Age - 42 yrs., Occu.- Agriculture and Service

4) Arvind Ganpat Ghadigaonkar

Age - 36 yrs., Occu.- Agriculture

All R/o.-Tirlot-Bhakarwadi,

Tal.Deogad, Dist.Sindhudurg

5) Suvidha Sudhakar Pujare

Age - 43 yrs., Occu.- Housewife

R/o.-Baparde-Kaleshwarwadi,

Tal.Deogad, Dist.Sindhudurg

**... Plaintiff**

**Versus**

1] Rushi @ Punaji Sakharam Ghadi (**Deceased**)

His legal heirs

1A) Anita Punaji Ghadi

Age - 60 yrs., Occu. - Nil

1B) Rakesh Punaji Ghadi

Age - 37 yrs., Occu. - Agriculture

1C) Amit Punaji Ghadi

Age - 35 yrs., Occu. - Agriculture

Defendant No.1A to 1C R/o.-At Goval- Gavathan,

Po. Patgaon, Tal.Deogad, Dist.Sindhudurg

2] Suryaji Sakharam Ghadi

Age - 65 yrs., Occu. - Agriculture

3] Rajaram Sakharam Ghadi

Age - 58 yrs., Occu. - Agriculture

4] Santosh Bhanu Ghadi

Age - 50 yrs., Occu. - Agriculture

Defendant No.2 to 4- R/o.-Tirlot-Gaonwadi,

Tal.Deogad, Dist.Sindhudurg

5] Ravindra Namdev Ghadi

Age - 32 yrs., Occu. - Agriculture

6] Ramchandra Shankar Ghadigaonkar

Age - 48 yrs., Occu. - Agriculture

7] Shreepat Shankar Ghadi

Age - 71 yrs., Occu. - Agriculture

Defendant No.5 to 7- R/o.-Tirlot - Bhakarwadi,

Tal.Deogad, Dist.Sindhudurg

**...Defendants**

**Appearance :-**

Shri. A.M.Mangonkar, learned counsel for plaintiffs.

Shri.M.S.Kale, learned counsel for Defendant No.4.

Defendant Nos. 1, 1A, 1B, 1C, 2, 3, 5, 6, 7 - Ex-parte

**J U D G M E N T**

(Delivered on 23/06/2026)

Present suit is filed by the Plaintiff for permanent injunction restraining defendant No.1 to 4 from obstructing his peaceful possession over the suit property with an alternative relief for possession if dispossession is found.

**Brief facts of the suit are as follows :-**

2. Description of the suit properties is as follows:  
Situating at Village Tirlot, Taluka Devgad, District Sindhudurg :-

| Sr.No. | Survey No. | Hissa No. | Area He.R.Po.      | Assessed At Rs.Ps. |
|--------|------------|-----------|--------------------|--------------------|
| 1.     | 43         | 1/4       | 0.02.00            | 0.02               |
| 2.     | 43         | 1/8       | 0.08.00<br>0.02.00 | 0.05               |

As such, the suit subject matter includes the properties along with the trees and other integrated items therein.

3. According to the Plaintiff's contentions, suit property was ancestral property of Plaintiff and Defendant No.5 to 7 by virtue of tenancy. Further he asserts that following previous

partition suit bearing R.C.S. No.23/2015, filed between the Plaintiff and Defendant No.5 to 7, the properties were properly divided and Plaintiff remained in exclusive and peaceful possession over the suit property.

4. It is claimed by Plaintiff that Defendant No.1 to 4 do not have any right, title or interest over the suit properties. However, by taking disadvantage of having properties adjacent to the suit properties, Defendant Nos.1 to 4 in January 2021 unlawfully entered the fields, obstructed agricultural operations and physical threatened the Plaintiff with dispossession from suit property. Plaintiff is old age person. Hence, he filed present suit with prayer that Defendant No.1 to 4 shall not obstruct his possession over the suit property. Defendant No.5 to 7 are formal parties and no prayer is claimed against them. During the proceeding of suit original Plaintiff died. His legal heirs i.e. Plaintiff No.1 to 5 came on record and proceeded the suit further and prayed to decree the suit.

5. Suit summons is duly served on Defendant Nos. 1 to 7. But Defendant Nos.1 to 3 and 5 to 7 do not appeared. Hence, suit is proceeded ex-parte against Defendant Nos.1 to 3 and 5 to 7. During the proceeding of suit, Defendant No.1 died. His legal heirs i.e. Defendant Nos.1A to 1C brought on record by Plaintiff. But inspite of service of summons, Defendant Nos. 1A to 1C have not appeared. Hence, suit is proceeded ex-parted against Defendant Nos.1A to 1C.

6. Defendant No.4 appeared and resisted the suit by filing his W.S at Exh.24. Contesting Defendant have denied all allegations of obstruction or threat alleged against him by the Plaintiff. Defendant No.4 submitted that the layout of original survey No.43 Hissa No.1 having total area of 01-00-4 H.R.P. was partitioned over time into 16 distinct sub-partitions.

7. He further submitted that Hissa No.1/3 and Hissa No.1/11 belong to the ancestral branch of Sakharam Narayan Ghadi and Bhanu Narayan Ghadi which his family cultivates continuously. Further he contended that Defendant Nos.2 to 4 maintained peaceful possession over there on separate holdings i.e. Hissa No.1/3 and Hissa No.1/11. Defendant No.1 to 4 never stepped foot into or disrupted possession over the Plaintiff's distinct plot. On contrary, Defendant No.4 submitted that to grab the land of Defendant, Plaintiff have filed present suit. Hence, he prayed to dismiss the suit.

8. After perusing the rival pleadings of the parties, my Ld. predecessor has framed issues at Exh.28. I am reproducing the same with my findings on those issues along with reasons as follows:

| Sr.No. | Issues                                                              | Findings            |
|--------|---------------------------------------------------------------------|---------------------|
| 1.     | Whether Plaintiffs prove that suit property is in their possession? | In the affirmative. |

|    |                                                                                                              |                     |
|----|--------------------------------------------------------------------------------------------------------------|---------------------|
| 2. | Whether Plaintiffs prove Defendant No.1 to 4 are causing obstruction to their possession over suit property? | In the affirmative. |
| 3. | Whether Plaintiffs are entitled for reliefs as sought for?                                                   | In the affirmative. |
| 4. | What order and decree?                                                                                       | As per final order. |

### **REASONS**

9. To prove his claim, Plaintiff have examined Plaintiff No.4 Arvind Ganpat Ghadigaonkar as Plaintiff's Witness No.1 (PW-1) at Exh.37. Also, he filed on record documentary evidence which is discussed in reasoning part. By filing pursis below Exh.44 Plaintiff closed his evidence. On contrary, defendants have not adduced any oral evidence. But filed on record various documentary evidence which was taken into consideration while deciding the issues. By filing pursis below Exh.47 Defendant No.4 closed his evidence.

10. Heard arguments of Ld. Advocate Shri. A.M. Mangaonkar for Plaintiff. He argued that Plaintiff is in the possession of suit property. Defendant No.1 to 4 obstructing his possession over the suit property. Hence, he prayed to decree the suit. In support of his arguments, he relied upon following case laws.

1) Vinod Kumar Arora vs Smt. Surjit Kaur (AIR 1987 SUPREME COURT 2179)

2) Pandurang Jivaji Apte vs Ramchandra Gangadhar Ashtekar (dead ) by LRS and ors. (AIR 1981 SUPREME COURT 2235).

11. On contrary, Ld. Advocate Shri.M.S.Kale for Defendant No.4 argued that they have never obstructed the possession of Plaintiffs. Hence, no cause of action arose for the present suit. As present suit is filed only to grab property of Defendant No.4, suit is liable to be dismissed. Hence, he prayed to dismiss the suit. In support of his arguments, he relied upon following case laws.

1) Chintala Krishnamurty vs Uppala Rajlingam, (AIR1980AP69)

2) Bheekam Chand vs Ismail and anr. (AIR 2006RAJ1)

**AS TO ISSUE NO. 1 :-**

12. In a suit for permanent injunction, the element of de facto physical possession forms the very foundation of the cause of action, as equity protects the person who is in peaceful enjoyment of the property. Under Section 38 of the Specific Relief Act, 1963, a Plaintiff cannot seek to restrain others from interfering with a property unless they establish their own settled, lawful possession over it on the date of filing the suit. Hence considering the nature of the suit, first issue is framed is, whether Plaintiffs prove that suit property is in their possession? the burden is casted on the Plaintiff to prove that he is in the possession of the suit property.

13. From careful analysis of the pleadings it reveals that, Plaintiffs categorically plead that they are in exclusive, settled physical possession of the suit properties, viz., Survey No. 43 Hissa No. 1/4 and Survey No. 43 Hissa No. 1/8.

14. Under Order VIII Rule 3 of the Code of Civil Procedure, 1908, it is mandatory for a Defendant to deal specifically with each allegation of fact of which he does not admit the truth. He must not deny them evasively. Further, Order VIII Rule 5 of the C.P.C. explicitly mandates that every allegation of fact in the plaint, if not denied specifically or by necessary implication, or stated to be not admitted in the pleading of the Defendant, shall be taken to be admitted. A perusal of the Written Statement filed by Defendant No. 4 reveals that while he details his own possession over separate lands i.e. Hissa Nos. 1/3 and 1/11, he has not specifically denied the Plaintiffs' possession over the specific suit property i.e. Hissa Nos. 1/4 and 1/8. There is no transverse block or specific claim of possession asserted by Defendant No. 4 regarding the suit land. Applying the settled law of pleadings under Order VIII Rule 5, the lack of a specific denial operating against the suit property amounts to an implied admission of the Plaintiffs' possession.

15. Further it is pertinent to note that, the oral assertion of possession made by the Plaintiffs is strongly fortified by undisputed documentary evidence. The Plaintiffs have placed on record the certified 7/12 extracts of the suit properties at Exh. 6 and 7, which clearly reflect the name of Ganpat Shankar Ghadi

the deceased Plaintiff in the cultivator's column through whom present Plaintiffs claim their right in the suit property. Under Section 157 of the Maharashtra Land Revenue Code, 1966, an entry in the Record of Rights and a certified entry in the Register of Mutations shall be presumed to be true until the contrary is proved. Although revenue records are primarily maintained for fiscal purposes, it is a well-settled judicial dictum that a 7/12 extract carries a strong statutory presumption regarding the actual possession of the cultivator named therein. Defendant No. 4 has failed to lead any cogent evidence to rebut or dislodge this statutory presumption.

16. When the absolute lack of a specific denial in the Written Statement is conjoined with the un-rebutted statutory presumption of the 7/12 extracts, the scale of justice tilts completely in favor of the Plaintiffs. The documentary evidence reinforces the legal truth that the Plaintiffs were in settled possession of the suit properties at the time of the institution of the suit. Consequently, the Plaintiffs have successfully discharged their burden of proof under Section 101 of the Indian Evidence Act. Hence, I answer Issue No.1 in the affirmative.

### **AS TO ISSUE NO. 2 :-**

17. In a suit for a permanent prohibitory injunction governed by Section 38 of the Specific Relief Act, 1963, proving a concrete act or a credible threat of obstruction is the vital link that completes the cause of action. While the proof of lawful possession establishes the plaintiff's right, it is the proof of obstruction—or a substantial threat to invade that right—that

justifies the intervention of a court of equity. Hence, the Issue No.2 is Whether Plaintiffs prove's Defendant No.1 to 4 are causing obstruction to their possession over suit property?

18. The Plaintiffs contend that taking disadvantage of being adjacent land owners, Defendants Nos. 1 to 4 have launched an unlawful eye on the suit property and actively caused obstructions to their agricultural operations in January 2021.

19. On contrary Learned Advocate Shri. M. S. Kale for Defendant No. 4 vehemently argued that there is an absolute dearth of independent evidence to confirm any actual physical acts of obstruction by the Defendants. He urged that in the absence of a verified, overt act on the field, no cause of action can be said to have arisen against the Defendants, rendering the suit premature and meritless. In support of his arguments, he relied upon Chintala Krishnamurty vs Uppala Rajlingam (supra), in this case Hon'ble Andhra Pradesh High Court held that '*No court would exercise its discretion to grant and injunction which will be ineffectual and of no use to the party concerned.*' After going through the facts of this case, it reveals that this case deals with an all together different realm of law namely easementary rights, municipal building plan violations and the infringement of a right to privacy caused by an adjacent land owner. Because the present dispute is not regarding easementary rights of light, air or privacy. Hence, the ratio laid down by Hon'ble Andhra Pradesh High Court cannot be made squarely applicable to the present case.

20. Further it is submitted by Ld. Advocate Shri.Kale that in Bheekam Chand vs Ismail case (supra) Hon'ble Rajasthan High Court held that *'There was no evidence on the part of the plaintiff by which it could be believed that the defendants were seeking to forcibly disposes him. The suit was not maintainable in its form not the plaintiff has approached the court with clean hands and was not entitled for any injunction.'* But upon carefully going through the case law, it found that this is not a ratio laid down by Hon'ble Rajasthan High Court, but it is the observation of Munsif Court. Which do not have any authoritative value.

21. Replying to this, Learned Advocate Shri.A.M. Mangaonkar for the Plaintiffs argued that the very act of Defendant No. 4 filing a Written Statement to fiercely resist the suit, coupled with the defendants' failure to provide a simple undertaking to respect the boundaries, is clear manifest proof of their hostile intentions to obstruct the Plaintiffs' possession.

22. Section 38(3) of the Specific Relief Act explicitly provides that a permanent injunction may be granted where the defendant threatens to invade the Plaintiff's enjoyment of property. In the present case, Defendant No.4 entered an appearance and chose to contest the matter. By setting up an adversarial defense, the defendants' animus to challenge or undermine the peaceable boundaries of the adjacent plots is judicially exposed. On contrary the legal submission of Advocate Mangaonkar holds significant water: the determination to fiercely resist the suit instead of conceding the boundary lines is itself a

clear indicators of an active, underlying threat to the Plaintiffs' unhindered possession.

23. Consequently, active resistance to the suit by the Defendant No.4, establishes that the Plaintiffs' fear of interference by their immediate neighbors is well-founded, reasonable, and legally real. Therefore, this Court holds that the Plaintiffs have sufficiently proved a threatened obstruction to their possession over the suit property by the adjacent defendants. Accordingly, I answer Issue No.2 in the affirmative.

**AS TO ISSUE NO. 3 :-**

24. Once a Plaintiff successfully establishes lawful possession and proves a real or threatened obstruction to that possession, the court must evaluate whether the equitable relief of a permanent injunction under Section 38 of the Specific Relief Act, 1963, is the appropriate remedy. The grant of an injunction is a matter of judicial discretion, which must be guided by sound legal principles, the conduct of the parties, and the necessity of preventing a multiplicity of judicial proceedings.

25. The record indicates that the suit has proceeded ex-parte against Defendant No. 1 and subsequently his substituted legal heirs, as well as against Defendant No.2 and Defendant No.3. Despite being duly served with the summons of this court, these parties chose not to appear, failed to file their Written Statements, and did not cross-examine the Plaintiffs' witness. In the realm of civil jurisprudence, when a defendant permits a suit to proceed ex-parte, it implies that they do not wish

to controvert or challenge the specific factual assertions leveled against them in the plaint. The Plaintiffs explicitly pleaded that these Defendant Nos.1 to 4, acting in concert, entered the suit property in January 2021 and issued severe physical threats to dispossess them. Because this specific testimony remains completely un-rebutted, un-impeached, and unchallenged by Defendants Nos.1, 2, and 3 the Court has no option but to accept the Plaintiffs' evidence against them as the operational truth. Their past hostile conduct on the field, combined with their absolute non-cooperation and default in the judicial process, demonstrates a reckless disregard for the Plaintiffs' statutory rights. Leaving the Plaintiffs without the protection of a court decree against these non-contesting Defendants would leave their possession highly vulnerable to future, unchecked incursions. Therefore, the need for a permanent injunction against Defendant No. 1 and his legal heirs, Defendant No. 2, and Defendant No. 3 is fully established to secure judicial peace.

26. Consequently, whether by way of the unchallenged ex-parte evidence against Defendants Nos. 1, 2, and 3, or by way of the hostile, litigious conduct of Defendant No. 4 despite having no title to the suit property, the Plaintiffs have made out a flawless case for equitable relief. The balance of convenience entirely favors the Plaintiffs, and no hardship will be caused to the Defendants by restraining them from entering land that does not belong to them. The Plaintiffs are, therefore, fully entitled to the relief of a permanent injunction against Defendant Nos. 1 to 4. Hence, I answer Issue No. 3 in the affirmative.

**AS TO ISSUE NO. 4 :-**

27. In the light of the above discussion, I answer Issue No.1 to 3 in the affirmative, Accordingly, in answer of Issue No.4, I proceed to pass following order.

**ORDER**

|    |                                                                                                                                                                               |
|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | Suit is Decreed.                                                                                                                                                              |
| 2. | Defendant No. 1A to 1C, 2, 3 and 4 are permanently prohibited from obstructing possession of the Plaintiff over the suit property otherwise than following due course of law. |
| 3. | Parties to bear their own cost.                                                                                                                                               |
| 4. | Decree be drawn up accordingly.                                                                                                                                               |

(Pronounced and dictated in open court.)

Date : 23/06/2026

( Shrikant S. Pachandi)  
Civil Judge Junior Division,  
Deogad.