

**CNR No :- MHSI100001182025**



**:- REGULAR CIVIL SUIT No. 26/2025 :-**

**:- ORDER BELOW Exhibit-16 :-**

Defendant has filed the counter claim against the plaintiff wherein he have filed the present application against plaintiff for temporary injunction under Order-XXXIX Rule-1 and 2 of The Code of Civil Procedure, 1908 (hereinafter referred as 'CPC' in short).

2. The house bearing Gram-Panchayat house No. 66-B situated at village Pikule is the subject matter of the counter claim and hence, hereinafter referred as 'counter claim house'.

3. It is the case of Defendant that House No. 66 was constructed by the father of the Plaintiff and Defendant, Vishnu and their uncle Vitthal, prior to 1960, and is jointly held as ancestral property. House No. 268 was subsequently built in 1980 due to family expansion, with Vitthal and his family relocating there. The Plaintiff, Defendant, their father Vishnu, and mother Laxmi resided in House No. 66. Following the father's demise on November 24, 1981, the Plaintiff, Defendant, and their mother continued to reside in House No. 66. Due to family expansion and ensuing disputes, a meeting with neutral persons resulted in a decision that the Defendant would utilize the western side veranda of House No. 66. The Defendant occasionally resided in Mhapusa for his daughter's education. In July 2023, the portion of House No. 66 occupied by the Defendant became dilapidated, prompting an application for repairs to the Gram-Panchayat. Given that the assessment extract listed only the Plaintiff's

name, the Gram-Panchayat, after inquiry, divided House No. 66 into 66-A and 66-B, assigning House No. 66-B to the Defendant. Subsequently, with permission dated May 20, 2025, the Defendant commenced repairs. However, the Plaintiff and his son obstructed these repairs, leading the Defendant to seek police protection. It is contended that the Plaintiff is obstructing the Defendant's repairs with malicious intent by filing the present suit. The Defendant asserts that failure to repair the counterclaim house will result in its collapse and cause irreparable loss. Therefore, it is prayed that the Plaintiff be temporarily restrained from disturbing the Defendant's peaceful possession of the counterclaim house and from interfering with its repairs. Furthermore, it is prayed that the Plaintiff be restrained from blocking the entry door of the counterclaim house. Accordingly, it is prayed that application be allowed.

4. The Plaintiff has filed an objection (Exhibit-22) to the application, contending it is false. On 22.02.24, the Plaintiff obtained ownership of land Gat No. 1584 via Gift-deed No. 257/24 from Prabhavati Khema Gawas. In 1980, the Plaintiff's father, Vishnu Thakur, built House No. 268 on this property. Similarly, the Plaintiff's uncle, Vitthal Thakur, built House No. 66 there. When the Plaintiff's father's House No. 268 collapsed due to rain in 1995-96, the Plaintiff constructed an independent house on the property, which was numbered Gram-Panchayat House No. 66. This House No. 66, built by the Plaintiff, is the suit property and is assessed in the Plaintiff's name. Subsequently, the Gram-Panchayat re-numbered Vitthal Thakur's original House No. 66 as House No. 268, which was later assessed in the name of his wife, Rukmini Thakur, after his death. The suit house is not ancestral property of the Plaintiff and

Defendant; it is exclusively owned by the Plaintiff. The Defendant, the Plaintiff's brother, resides in Mhapusa, Goa. On 17.08.23, the Defendant applied to the Gram-Panchayat to record his name over the suit house, allegedly using false tax receipts. The Plaintiff objected to this application. However, in the Gram-Sabha dated 03.09.24, House No. 66 was illegally divided into House No. 66-A (in the Plaintiff's name) and House No. 66-B (in the Defendant's name). On 06.06.25, upon receiving a police notice, the Plaintiff learned that the Defendant was attempting to repair the suit house under police protection. The Plaintiff believes these repairs are an attempt to create rights over the suit house and that such repairs could cause the house to collapse. The Plaintiff contends that House No. 66-B is not an independent house and that the Defendant is trying to create his house over House No. 66. If an injunction is granted, it would cause irreparable loss to the Plaintiff. Therefore, it is prayed that the application be rejected.

5. Perused the application and say. Heard Ld. Advocate for the Defendant and Plaintiff. The points for my determination, its findings along with reasons are as follows :-

<b><u>SR. NO.</u></b>	<b><u>POINTS</u></b>	<b><u>FINDINGS</u></b>
1)	Whether the Plaintiff has made out prima-facie case ?	Partly Affirmative.
2)	Whether balance of convenience is in favour of the Plaintiff ?	Affirmative.
3)	Whether the Plaintiff will suffer irreparable loss in the event of refusal of temporary injunction ?	Affirmative.
4)	What Order ?	Application is partly allowed as per order.

-: **REASONS** :-

6. In support of his case, defendant relied upon documents such as Tax receipts of house No. 66 Dtd. 30.10.1998, Tax receipts of house No. 66-B of year 2024-25 and 2025-26, Assessment Extract of house No. 66-B at **Exhibit-19**, a permission issued by Gram-Panchayat to repair house No. 66-B Dtd. 20.05.2025, light bill and its consumer personal ledger of house No. 66, the damage report of house No. 66 filed by Gram-Panchayat to the Tahasildar, 6 photos of the house No. 66-B and School Leaving Certificate of defendant.

7. On the other hand the Plaintiff relied upon documents such as 7/12 extract of Gat No. 1584 at **Exhibit-6**, Assessment Extract of House No. 66 **Exhibit-7**, Assessment Extract of House No. 66-A **Exhibit-8**, Assessment Extract of House No. 66-B **Exhibit-9**, the receipts of House Tax of House No. 66 of year 1997-98, 2018-19 and 2023-24, 4 photographs of suit house.

**Points No. 1 to 3 :-**

(As all these points are interlinked and in order to avoid repetition of facts, they are dealt with, discussed and decided together.)

8. In short, it is the case of defendant that, house No. 66 is divided into house No. 66-A and House No.66-B. House No. 66-B assessed in the name of defendant and its possessed by him. That, the plaintiff is causing obstruction to the defendant to repair the house No.66-B i.e. the counter claim house and hence, the present application.

9. The Learned Advocate for the Defendant argued that House No. 66 was an ancestral house. All receipts produced by the

parties reflect the name of the Father of the parties. The Defendant is repairing House No. 66-B, which is in his name. The Defendant has obtained permission from the Gram-Panchayat to repair the counterclaim house. If the Plaintiff succeeds in obstructing the Defendant from repairing the house, then it may cause irreparable loss. Mainly on these grounds, it was prayed that the Application be allowed.

10. On the other hand, it is argued by the Plaintiff that the 7/12 extract of Gat No. 1584 is in the name of the Plaintiff, and House No. 66 is assessed in the name of the Plaintiff. The assessment of House No. 66-A and 66-B is alleged to be illegal. The tax receipt dated 30.10.1998 in the name of the father of the Plaintiff and Defendants is contended to be fraudulent as the father had died in the year 1981. Hence, the division of House No. 66 on the basis of that receipt is illegal. The photos show that the construction is demolished beyond repairs. It is further contended that the Gram-Panchayat has not granted permission to the Defendant to repair the house. On these grounds, it is prayed that the Application be rejected.

11. Upon review of the 7/12 extract for Gat No. 1584 (Exhibit-6), it is noted to be in the name of the Plaintiff. The assessments for House No. 66 (Exhibit-7) appear in the Plaintiff's name, while assessments for House No. 66-B (Exhibit-09 and Exhibit-19) appear in the Defendant's name. It is undisputed that House No. 66 was assessed in the Plaintiff's name. The Plaintiff alleges that House No. 66 was divided based on a fraudulent tax receipt. The legality of the 1998-99 tax receipt cannot be determined at this preliminary stage. Consequently, the legality of the division of House No. 66 cannot be

ascertained at this juncture and will require the completion of evidence from both parties. While the 7/12 extract for Gat No. 1584 is in the Plaintiff's name, it is established that House No. 66-B, admittedly a part of House No. 66, is assessed in the Defendant's name. Furthermore, tax receipts for 2024-2025 and 2025-2026, produced by the Defendant, prima facie indicate payment by the Defendant. Photographs submitted by the Plaintiff (Exhibit-27), photographs submitted by the Defendant (Exhibit-18), and a report dated 11.07.2025 from the Gram-Panchayat to the Tahsildar (Exhibit-18) prima facie demonstrate that the house has sustained damage. The Defendant has also placed on record a No Objection Certificate (NOC) issued by the Gram-Panchayat for the repair of House No. 66-B (Exhibit-18). The Plaintiff contends that the said NOC does not constitute permission as required under the Gram-Panchayat Act. However, it is imperative to recognize that this is a very primary stage of proceedings, and such detailed aspects are not expected to be thoroughly examined at this point. The application must be considered solely on the basis of prima facie material. In light of this, the NOC produced by the Defendant prima facie indicates that the Gram-Panchayat has permitted the repair of the house. Under these circumstances, and considering the material on record, the Defendant has established a prima facie case demonstrating possession over the counterclaim house, that the same is damaged, and that the Plaintiff is obstructing repairs. However, there is no prima facie case demonstrating that the Plaintiff blocked the front door of the counterclaim house. If the Defendant proceeds with the repair of House No. 66-B, it would not cause irreparable loss to the Plaintiff. Conversely, disallowing the Defendant from undertaking repairs may

result in irreparable loss to the Defendant. Therefore, the balance of convenience and the aspects of irreparable loss also weigh in favor of the Defendant. Accordingly, Point No.1 is answered as '**Partly Affirmative**' and Points No.2 and 3 are answered in the '**Affirmative.**'

**Point No. 4 :-**

12. From the foregoing discussion, it is evident that the Defendant has established a prima facie case demonstrating that the Plaintiff is obstructing the repair of House No. 66-B. However, the Defendant has not presented a prima facie case indicating that the Plaintiff blocked the front door of the counterclaim house. Accordingly, the application is liable to be partly allowed. Therefore, in answer to this point, I proceed to pass the following :-

**-:: ORDER ::-**

1. Application is partly allowed.
2. It is hereby ordered that the Plaintiff, his family members, agents, or anyone acting on his behalf, are restrained by way of temporary injunction from disturbing the Defendant in carrying out repairs of the counterclaim house without following due process of law, until the final decision of this suit or until further orders of this Court.

(Dictated and Pronounced in Open Court.)

Place : Dodamarg.  
Date : 04/11/2025.

( Y. P. Bavkar )  
Civil Judge (Junior Division),  
Dodamarg.