

MHSN02-001022-2025

**ORDER BELOW EXH. NO. 5 IN R.C.S. NO. 131/2025**

**Parshwa Reality
Vs.
Somnath Ramling Kore**

The present application is filed by the plaintiff for temporary injunction as to non alienation in respect of the suit properties, more specifically mentioned in the para no. 1 of the plaint.

2] It is submitted for the plaintiff that, the suit properties were owned by Ganpati Panchayatan Sansthan and it was allotted for the Civil Hospital for Sangli District as per the section 19(b) of the Ganpati Panchayatan Sansthan Act, 1940, if the land is allotted for specific purpose and the said purpose ceases then the said Sansthan has every right to claim that the said properties from the Government. However, the Maharashtra Government already allotted 35 acre land for Civil Hospital and therefore the purpose of allotment of said land ceases. The Ganpati Panchyatan Sansthan claimed back the said properties in Criminal W. P. 8434/2009.

3] It is further submitted that, during the pendency of said petition, on 28.09.2010 the defendant being a Power of Attorney holder for the Ganpati Panchayatan Sansthan sold the suit properties to the plaintiff, for some consideration. Accordingly, the name of the plaintiff is mutated over the suit properties, but subsequently the

name of the plaintiff was deleted. At that time, some terms were agreed between the parties and time frame was agreed between them for fulfilling those terms. However, the Ganpati Panchayatan Sansthan failed to comply those terms within time. During the time, the Hon'ble High Court reverted back the said properties to the Ganpati Panchayatan Sansthan on 07.01.2025. The said order is not challenged before any other forum and the Maharashtra Government has handed over the possession of the suit properties to the defendant. Now the defendant has no ownership over the suit properties as the same are sold to the plaintiff firm. At the time of execution of sale deed a symbolic possession of the suit properties were handed over to the plaintiff firm.

4] It is further submitted that, yet when the plaintiff went to claim back possession of the suit properties, the defendant refused to give possession of the suit properties to the plaintiff firm and started threatening the plaintiff firm that he will sale the some part of suit properties. Therefore the plaintiff issued notice through its advocate on 14.04.2025 and claimed back the possession of the suit properties. However, the defendant refused to give possession. Therefore, the plaintiff published public notice in the newspaper restraining to other person for purchasing the suit properties. The plaintiff also put a holding on the suit property restraining third parties from purchasing the suit properties on 15.04.2025. However the defendant with the help of its goons torn the said holding on 19.04.2025. Therefore the plaintiff firm has filed complaint to that

effect. As the defendant wanted to create third party interest in the suit properties, he is constrained to file this suit and this application.

5] The defendant appeared and strongly objected contention in the plaint and filed say below Exh. 15 and stated that, the area and the four-boundary mentioned in the plaint in respect of suit properties are incorrect. The defendant admitted execution of sale deed in favour of the plaintiff firm, but denied the area mentioned in the plaint as a suit property. It is further contention of the defendant that, he didn't receive the possession of the suit properties from the Maharashtra Government. Therefore he by the letter dated 16.01.2025 claimed back the possession of the suit properties and yet there is no response from the Maharashtra Government. Therefore, on 28.03.2025 he wrote a letter to the Maharashtra Government and informed the Government that as per the order passed in W.P. no. 8434/2009 dated 07.01.2025 he is taking back the possession of the suit property from 30.03.2025. However, there is no response from the Government and therefore he has no possession of the suit properties. Now as the properties are not in the possession of the defendant. The defendant cannot hand over the possession of the same to the plaintiff. Therefore, the suit is filed by the plaintiff by relying upon by incorrect information.

6] It is further contention of the defendant that, in fact, on 28.09.2010, the defendant executed sale deed in favour of the plaintiff in respect on 7162.45 Sq.Mtr. out of the 8091.77 Sq.Mtr.

and the remaining portion is in the name of the Ganpati Panchayatan Sansthan. In fact the sale deed is executed in hollow and consideration agreed between the name is not passed on. Therefore, the defendant can not claimed any relief. The sale deed was executed by taking undue advantage of the poor financial condition of the defendant and with the help of Revenue Officers. The mutation entry of the plaintiff firm was cancelled by the competent authority and the same is not challenged by the plaintiff firm before anyone. Moreover, one Special Civil Suit no. 194/2016 is filed before Civil Judge Sr. Division in respect of suit properties by Rakesh Gunani and the same is pending. Therefore, he prayed that the suit be dismiss and this application be rejected.

7] Perused the application and say filed by the defendant along with documents on record. Heard both sides. Perused the documents on record. After considering rival submitted of the both parties following points arose for my determination and I am answering them with reasons as under:

Sr. No.	Point for determination	Findings
1.	Whether the plaintiff made out prima-facie case?	Partly affirmative
2.	Whether the plaintiff proves balance of convenience in his favour?	Partly affirmative
3.	Whether the plaintiff proves that he will suffer irreparable loss and hardship if temporary injunction is not granted ?	Partly affirmative
4.	What order?	As per final order.

: REASONS :

8] It is argued for the plaintiff that, the execution of sale deed is not denied by the defendant. The defendant only disputed consideration and area of the suit properties mentioned in the plaint and in the sale deed. However, the defendant is not ready to undertake that he will not sale out the suit properties. Therefore, temporary injunction be granted. Therefore, he prayed for rejection of the application. The plaintiff relied upon the judgment of **Hon'ble Supreme Court in Jamila Begum (D) thr. LR's. Vs. Shami Mohd. (D) thr. LR's, AIR 2019 SC 72** held by the Apex Court that, as per section 49 of the Registration Act and section 123 of Transfer of Property Act, the burden of proof lies on the party challenging the validity of sale deed and if the plaintiff fails to challenge the sale deed executed in favour of the defendant nor claiming his right over the suit property for eight years inspite of number of proceedings taking place between the parties-Suit is barred by limitation.

9] Whereas the defendant argued that, the sale deed executed is in hallow and therefore, it cannot be said to be binding moreover the boundaries of the suit properties as well as the area mentioned is different. Therefore no such relief can be granted.

10] The plaintiff in support of his contentions relied upon the documentary evidence as under 7/12 extracts of suit property, photocopy of the sale deed, online copy of order passed by Hon'ble

High Court in Cri.W.P. no. 8434/2009, a notice by advocate Shri. Doshi public notice, holdings in the suit property and the police complaint etc. Whereas the defendant filed the public notice issued by the Shri Patwardhan.

Point no.1 :-

11] Upon the perusal of above contentions of the application and documents on the record it appears that, the execution of sale deed is not denied. Upon the perusal of sale deed it appears that, the defendant for the Ganpati Panchayatan Sansthan sold the properties situated at Rajwada Parisar, having admeasuring area of 7162.45 sq.mtr. out of 8991.77 sq.mtr vide registered sale deed on 28.09.2010. However, the plaintiff filed this suit for the admeasuring area of 14938.34 sq.mtr. out of 15961.63 sq.mtr. even the boundaries of the suit property mentioned in plaint are different than that of mentioned in the sale deed. Therefore, prima-facie there is a substance in the contention of the defendant as to incorrect boundaries of the suit properties.

12] Prima-facie from the perusal of contents of the plaint and the document on record it appears that, though the area of the suit property as mentioned in the plaint i.e. 14938.34 sq.mtr is not a subject matter of sale deed, the plaintiff has made out his prima-facie case in respect of admeasuring land of 7162.45 sq.mtr. Therefore, I answer point no. 1 in partly affirmative.

Point no. 2:-

13] Now let me see that whether the plaintiffs are actually in necessity for affording the protection of his right in the suit properties.

14] The plaintiff claims to be in symbolic possession of the suit property. The said fact is denied by the defendants. However, upon the perusal of sale deed it appears that, the defendant put the plaintiff in symbolic possession in the suit property having admeasuring area 7162.45 sq.mtr. Moreover, the plaintiff has given public notice in the newspaper i.e. Dainik Pudhari dated 16.04.2025, restraining any transaction in respect on the properties mentioned in the plaint. In result, I am of the opinion that, the balance of convenience lies in favour of the plaintiff. Accordingly, I answer point no. 2 in partly affirmative.

Point no. 3 :-

15] Now let me see whether the plaintiff made out his case that if temporary injunction not given then he will sustain irreparable loss or injury.

16] The present matter is now sub-judice. Admittedly, the defendant is denying the interest of the plaintiff over the suit properties. Even Shri. Vijaysinha Raje Patwardhan denied the contentions of the plaintiff published in the newspaper by issuing

public notice dated 20.09.2025 in Dainik Sakal. Therefore, there is prima-facie apparent threat to the interest of the plaintiff over the suit properties purchased by him vide registered sale deed on 28.09.2010. Therefore, I am of the opinion that if the temporary injunction is not granted in favour to the plaintiff then he will suffer irreparable injury to his rights in the suit properties. Therefore, for the reasons recorded above, I answer to point no. 3 in partly affirmative.

17] In result of above discussion and citations submitted by the plaintiff, I am inclined to partly allow this application. I pass the following order:-

ORDER

- i] The application is partly allowed.
- ii] The defendant or any other person claiming under or through him are temporary restraining from alienating or creating third party interest or changing the nature of the suit properties as mentioned in the registered sale deed dated 28.09.2010, till the dispose of suit.
- iii) No order as to cost.

Sangli.
Date:- 29/09/2025.

(Rohini S. Patil)
Jt. Civil Judge Jr. Dn.,
Sangli.