



Order Below Exhibit 05
(Husen Shabbir Mujawar *versus* Gajanan Ramu Magdum)

1. Read the plaint, temporary injunction application (exhibit 05) and affidavit filed in support of the plaint. Perused documents annexed there with.

2. Heard the learned advocate Shri. D. M. Dhavate for plaintiff on the point of ad interim ex parte injunction. It would be submitted by the plaintiffs that, one Babu Nardekar has executed a registered will deed dated 10.04.2023 in the name of the present plaintiffs' in respect of the suit property involved in present suit. Babu Nardekar has expired on 26.09.2023. Therefore, on 10.04.2023 on the basis of the registered will deed the suit property is in the possession of the present plaintiffs'. Thereafter, the names of defendant no. 2 to 4 have been entered in revenue records in a shallow manner. Taking disadvantage of this illegal revenue entries without having any title or possession of the suit property, the defendant no. 2 to 4 have executed a registered sale deed dated 18.03.2025 in the name of defendant no.1. Accordingly, defendant no. 1 has entered his name on revenue records. Taking advantage of these revenue entries, the defendant no. 1 is trying to obstruct the possession of the plaintiffs. Also, the defendant no. 1 has intimidated and tried to dispossess the plaintiffs' with the help of 25 to 30 goons on 20.05.2025. Thereafter, the plaintiff has given a written complaint to the concerned police station and to the Superintendent of

Police, Sangli. However, the police machinery has remarked this as a 'civil dispute' and have not initiated any proceedings against them.

3. In support of the above submissions, the plaintiff has filed on record revenue record of the city survey no. 2423 *admeasuring* 327.40, the initial sale deed executed in favor of Bapu Nardekar dated 15.11.1990, Judgment of RCA-33/2003, Order passed in second appeal 583/2008, will deed executed in favor of present plaintiffs' dated 10.04.2023, death certificate of Bapu Nardekar dated 04.10.2023, certified copy of sale deed executed by defendant no. 2 in favor of defendant no. 1 dated 18.03.2025 and police complaint given by plaintiff dated 20.05.2025.

4. It is a settled principle of law that, court has the power to grant the *ex parte* injunction without issuing the notice or granting a hearing to the party who will be affected by search order, the said order is to the exercise sparingly and under exceptional circumstances.

5. In *Morgan Stanley Mutual Fund v. Kartick Das (1994) 4 SCC 225*, the Supreme Court indicated the factors which should weigh with a court in the grant of an *ex parte* injunction :

- (i) whether irreparable or serious mischief will ensue to the plaintiff;
- (ii) Whether the refusal of *ex parte* injunction would involve greater injustice than grant of it would involve;
- (iii) the court will also consider the time at which the plaintiff first had notice of the act complained of so that the making of an improper order against a party in his absence is prevented;

- (iv) the court will consider whether the plaintiff had acquiesced for sometime and in such circumstances it will not grant *ex parte* injunction;
- (v) the court would except a party applying for *ex parte* injunction to show utmost good faith in making the application;
- (vi) even if granted, the *ex parte* injunction would be for a limited period of time;
- (vii) general principles like *prima facie* case, balance of convenience and irreparable loss would also be considered by the court.

6. In case of grave emergency it becomes imperative to grant an *ex parte ad interim* injunction, the same can be granted for a limited period. Perusal of the submissions and documents on record shows that, the plaintiff has a strong *prima facie* case to consider his prayer of *ex parte ad-interim* injunction. Considering the principles as stated in the case law cited above, it can be appreciated that the right involved is regarding an immovable property and any infringement of this right would cause a serious mischief to the plaintiff. Also, if the prayer of plaintiffs is not considered at this stage, the very purpose of suit might be frustrated and hence, to avoid further complications and multiplicity of proceedings, it would be just and proper to issue *ad interim ex parte* injunction against the defendants. In view of above discussion, following order is passed -

ORDER

1. Issue *ex-parte ad interim* injunction against the defendants restraining them from threatening the possession of the plaintiff and from alienating, transferring or creating third party interest in the suit property till next date.

2. Issue show cause notice to the defendants as to why the *ex-parte ad-interim* injunction shall not be confirmed till decision of the suit as prayed, returnable on **03.06.2025**.
3. Plaintiffs' to comply Order XXXIX Rule 3(A) of the Code of Civil Procedure.
4. E.P. and S.B is allowed.

Date – 26.05.2025
Place – Sangli.

I/c (J.S.Makandar)
9th Jt. Civil Judge Junior Division,
Sangli.

CERTIFICATE

I affirm that the contents of this PDF file judgment/Order is same word as per the original Judgment / Order.

(a)	Name of the stenographer	:	P D.Tingare
(b)	Court	:	J. S. Makandar 8 th Jt.Civil Judge Jr.Dn.& J.M.F.C.,Sangli
(c)	Judgment/Order signed by P. O. on	:	26/05/2025
(d)	Judgment/Order uploaded on	:	26/05/2025