



Order below Exh.5 in R.C.S.141/2025
(Husen Mujawar & Anr. V/s. Gajanan Magdum & Ors.)
(CNR NO.MHSN02-001087-2025)

The present suit has been instituted by the plaintiffs for declaration of title as well as perpetual injunction. Wherein the plaintiffs have made the present application under Order 39, Rule 1 and 2 r.w. Section 151 of Code of Civil Procedure for restraining defendant No.1 from causing obstruction to the peaceful possession of plaintiffs over the suit property.

2. It is the case of plaintiffs that, the property situated at Kupwad and bearing plot No.45,29 in old Survey No.348 having corresponding City Survey No.2423, having area of 327.40 Sq.Mtrs. situated within local limits of Sangli, Miraj & Kupwad Municipal Corporation is the subject matter of present suit. According to plaintiffs, it consists of cow shed made up of stones and soil (साधे दगड माती कौलारु गोठा) (hereinafter referred to as 'Suit property').

3. As per the plaintiffs, suit property was originally owned by one Jangonda Raigonda Patil, who died on 20.01.2020. Defendant Nos.2 to 4 are his legal heirs. Said Jangonda appointed one Raosaheb Balasaheb Nardekar as his power of attorney, who sold the said property to Bapu@Balasaheb Kallappa Nardekar. Said Bapu@ Balasaheb was in possession of said property since said sale deed bearing No.3023/1990, dated 15.11.1990. Subsequently Jangonda instituted suit No.70/1992 for declaration as to non binding ness of such sale deed. The said suit was decreed on 24.02.1994 declaring the said sale deed as illegal. However, the said decision was challenged by Bapu@Balasaheb Kallappa Nardekar in appeal bearing Regular Civil Appeal No.33/2003, before the Court of

Hon'ble District Judge, Sangli. The said appeal was decided on 16.07.2008 and the appeal was allowed. The judgment in Spl.C.S.No.70/1992 was reversed and set aside. Thus, the sale deed in favour of Bapu@Balasaheb Kallappa Nardekar was held to be legal. Hence, Bapu@Balasaheb Kallappa Nardekar is the owner and possessor of suit property by the sale deed dated 15.11.1990. Jangonda preferred a second appeal against the order in R.C.A.No.33/2003 before Hon'ble High Court, Mumbai vide second appeal No.583/2008, which is still subjudice.

4. Later on Bapu@Balasaheb Kallappa Nardekar bequeathed a will in favour of present plaintiff on 10.04.2023 which was registered vide registration No.2600/2023. Akash Ramesh Suyawanshi and Asir Umar Mujawar are the attesting witnesses to said deed, who signed the will in presence of testator. Said Bapu also executed a instrument of power of attorney in favour of plaintiff No.1. Bapu@Balasaheb Nardekar expired on 26.09.2023 and plaintiffs are in possession of suit property since the Will deed dated 10.04.2023. Due to the pendency of litigation, Bapu@Balasaheb did not try to mutate his name over revenue records of said property and by taking benefit of said thing, legal heirs of Jangonda i.e. defendant Nos.2 to 4 mutated their names over revenue records.

5. In background of these facts, defendant Nos.2 to 4 without any legal ownership and possession sold the suit property in favour of defendant No.1 dated 18.03.2025 bearing registration No.2316/2025, by taking undue advantage of revenue entries. Defendant No.1 tried to obstruct the peaceful possession of plaintiffs with the aid of 25 to 30 goons on 20.05.2025. Plaintiffs complained this to Police Superintendent and Kupwad MIDC Police Station. However, they referred this as a civil dispute. Hence, the plaintiffs were constrained to institute the present suit. Disposal of suit on merit will take time, prima-facie case and balance

of convenience are in favour of plaintiffs. Hence, plaintiffs prayed for granting temporary injunction till disposal of suit.

6. Defendant No.1 filed his reply at Exh.24 wherein he denied all the claims of plaintiffs. According to him, the description of suit property in Will deed, plaint and this application is different. Hence, the suit is barred by Order 7 Rule 3 of Code of Civil Procedure. According to defendant No.1, Bapu@Balasaheb never had the ownership and possession over suit property. Suit property is an open plot having a tin shed over area of 14.44 Sq.Mtrs. There is no cow shed in it. Therefore, nature of suit has been falsely mentioned. Defendant No.1 is the bona-fide purchaser of suit property having no knowledge about litigation regarding suit property. Hon'ble Bombay High Court prevented the predecessor of plaintiffs from creating any third party interest in a suit property, by its order dated 13.02.2009. Therefore, the Will deed in favour of plaintiffs is void-ab-initio. Hence, no interest is created by such Will in favour of plaintiff. No possession has been handed over to plaintiffs by such Will.

7. So also, the said Will is not above suspicion. Medical certificate attached with it is fictitious. The testator thereof was not physically and mentally sound. The sale deed in favour of defendant No.1 is legal and proper. Defendant Nos.2 to 4 had their entries over CTS No.2423, and they were regular in paying taxes. They were using the area of 14.44 Sq.Mtrs. in CTS No.2423 as tin shed. Remaining area is open and never had a cow shed over it.

8. The name of defendant No.1 is entered on revenue records of suit property. In order to compound it, defendant No.1 purchased necessary material on 19.05.2025 and 20.05.2025. He also took electricity connection therein. So also, he applied to Municipal Corporation for

cutting down the thorny bushes in the suit property. Hence, there is no cause of action for present application. The plaintiffs have suppressed material facts and trying to gain possession by taking benefit of ex-parte ad-interim injunction granted by Court. Hence, the application deserves to be rejected. So also, suit is also improperly valued. Accordingly, defendant No.1 prayed for rejection of application.

9. Considering the rival pleadings of the parties, the following points arise for my determination and I record my findings thereon with the reasons as follows,

Sr. No.	POINTS	FINDINGS.
1.	Whether the plaintiffs have prima-facie case?	Yes.
2.	Whether the balance of convenience lies in favour of the plaintiffs?	Yes.
3.	Whether the plaintiffs will suffer irreparable loss, if the temporary injunction is rejected?	Yes.
4.	Whether Plaintiffs are entitled for Temporary Injunction?	Yes.
5.	What order ?	As per final order.

10. In support of their submissions, the plaintiffs have relied on following documents.

- 01) CTS extract of CTS No.2423 at Exh.3/1.
- 02) Photocopy of sale deed executed by Raosaheb Nardekar in favour of Balasaheb at Exh.3/2.
- 03) Photocopy of judgment in RCS No.33/2023 at Exh.3/3.

- 04) Order of Hon'ble High Court in Second Appeal No.583/2008 at Exh.3/4.
 - 05) Will deed of Balasaheb Nardekar at Exh.3/5.
 - 06) Death certificate of Balasaheb Nardekar at Exh.3/6.
 - 07) Photocopy of sale deed in favour of defendant No.1 at Exh.3/7.
 - 08) Office copy of complaint made by plaintiff to concerned police station at Exh.3/8.
 - 09) Grampanchayat Assessment extracts from year 1990/91 to 1993/94 of house property No.662 at Exh.33/1.
 - 10) Grampanchayat tax payment receipts at Exh.33/2 & 33/3.
 - 11) Screenshots of criminal cases against defendant No.1 downloaded from CIS at Exh.33/4 & 33/5.
 - 12) Paper cutting of news published against defendant No.1 at Exh.33/6.
 - 13) Application made by plaintiff to Municipal Corporation for taking action against tree cutting at Exh.33/7.
 - 14) Complaint made by plaintiff to MSEB office, Kupwad at Exh.33/8.
 - 15) Affidavit of Raosaheb Nardekar at Exh.33/9.
- 11.** The defendant No.1 has also relied on following documents.
- 01) Exh.28/1 to 28/2 Tax assessment extract of plot No.45 and 29 of Grampanchayat Kupwad.
 - 02) Exh.28/3 to 28/8 house tax payment receipts from Sangli, Miraj, Kupwad Municipal Corporation.

- 03) Exh.28/9 and 28/10 Tax assessment extract of Sangli, Miraj and Kupwad Municipal Corporation.
- 04) Exh.28/11 communication from Municipal Corporation to defendant No.1.
- 05) Exh.28/12 to 28/14 valuation report of Sangli, Miraj, Kupwad of Municipal Corporation and tax payment receipts.
- 06) Exh.28/15 quotation issued by MSEDCL in favour of defendant No.1.
- 07) Exh.28/16 to 28/19 receipts of material purchased by defendant No.1 for compounding the suit property.
- 08) Exh.28/20 and 28/21 license and receipts issued by Municipal Corporation for tree cutting.
- 09) Exh.28/22, 28/23 and 28/24 search report and public notice and bill of daily news paper.
- 10) Exh.28/25 to 28/30 photographs of suit property.
- 11) Exh.28/31 Photographer's bill.
- 12) Exh.30/1 inquiry register extract from City Survey office.
- 13) Exh.37/1 Tax assessment extract of house No.662.
- 14) Exh.37/2 map of suit property issued by City Survey Office.

12. Perused the record. Heard Advocate Shri. D. M. Dhawate for the plaintiffs and Advocate Shri. S. S. Patil for defendant No.1 and Shri. S. B. Dhole for defendant Nos.2 to 4 at sufficient length.

- REASONS -

AS TO POINT NO.1:-

13. The plaintiff's case in nutshell is that, he is in possession of suit property. The suit property bearing old Survey No.348 and current CTS No.2423 was bequeathed to them by their predecessor-in-title Bapu@Balasaheb Nardekar by way of a registered Will bearing No.2600/2023 dated 10.04.2023. The source of title of his predecessor over the suit property was the sale deed bearing No.3023/1990, dated 15.11.1990. It was executed in favour of Bapu@Balasaheb Nardekar by Raosaheb Balasaheb Nardekar. The said Raosaheb was the power of attorney holder of original owner of suit property i.e. Jangonda Raigonda Patil.

14. The said sale deed was held avoidable by Trial Court, i.e. by the Court of Civil Judge, Senior Division in Special Suit No.70/1992. However, the validity thereof was upheld and decree of Court of C.J.S.D. was set aside by Hon'ble District Court in Regular Civil Appeal No.33/2003. Currently, the appellate decree is under consideration before Hon'ble High Court in Second Appeal No.583/2008. In such situation, by taking the benefit long standing revenue records in the name of original owner i.e. Jangonda Raigonda Patil and subsequently in legal heirs of deceased Jangonda i.e. defendant Nos.2 to 4, sold the suit property to defendant No.1.

15. In support of his case, plaintiffs have filed the CTS extract of suit property CTS No.2423 at Exh.3/1. It occurs to bear the names of present defendant Nos.2. to 4 and subsequently of present defendant No.1 on the basis of a sale transaction. At Exh.3/2 there is photocopy of sale

deed in favour of plaintiff's predecessor i.e. Bapu@Balasaheb Nardekar dated 15.11.1990. At Exh.3/3 and Exh.3/4 there occurs the judgment of Hon'ble District Court in Regular Appeal No.33/2003 and order of Hon'ble High Court in Second Appeal No.583/2008. At Exh.3/5 there is a Will deed of Late Balaso Nardekar. At Exh.3/7 there is photocopy of sale deed executed by defendant Nos.2 to 4 in favour of defendant No.1. So also at Exh.33/1 to 33/3 there occurs old revenue records of house No.362 situated within the local limits of Kupwad Grampanchayat. Both parties have admitted that Kupwad Grampanchayat later merged within Sangli, Miraj & Kupwad Municipal Corporation.

16. Defendant No.1 has filed his reply at Exh.42. Wherein he has pointed about the nature and description of suit property mentioned in the Will deed and present suit and application. He has also denied the ownership and possession of plaintiff's predecessor over the suit property. However, he has admitted that the original owner of suit property was Jangonda Patil and his predecessors i.e. defendant Nos.2 to 4 are the legal heirs of late Jangonda.

17. The defendant No.1 has filed the tax assessment extracts from the year 1980 for house property No.662, Kupwad Grampanchayat, tax payment receipts of Kupwad Grampanchayat and Sangli, Miraj & Kupwad Municipal Corporation and electricity bill payment receipts at Exh.28/1 to 28/15. Learned Advocate for defendant No.1 disputed the nature and description of suit property by pointing out that, the old Survey number has been mentioned as 348 in present suit and application, but, mentioned as 388 in the Will deed. He also pointed out the boundaries thereof in the plaint, sale deed at Exh.3/2 and in Will deed at Exh.3/6. Upon apparent perusal thereof the boundaries at east and north are looking to be same and slight difference occurs at west and

south. Therefore, what are the exact boundaries of suit property can only be ascertained after full fledged trial. Another thing pointed out was about old Survey number which has been mentioned as 348 in present suit and mentioned as 388 in Will deed at Exh.3/6. This may be a discrepancy, however, one thing has to be mentioned is that there is no dispute regarding current CTS No.2423. Rather some tax payment receipts at Exh.28/12 to Exh.28/15 also mention the same number. In such case, for the purpose of temporary injunction, especially wherein all the things should be ascertained apparently, the suit property looks to be sufficiently identified.

18. As replied, learned Advocate for defendant No.1 has also disputed the nature of suit property. Wherein he pointed out the nature described in plaint, present application, sale deed at Exh.3/2 and Will deed at Exh.3/6. Wherein the cowshed is mentioned in the suit property. For this purpose, learned Advocate for plaintiff relied on the photographs filed by him at Exh.28/25 to 28/30. These photographs are looking to be captured from top about a open plot surrounded by tins and also at earlier mentioned revenue records. There occurs no cowshed (गोठा) in the said photographs and revenue record. However, in my opinion, once suit property is sufficiently identified at this stage, then looking at the nature of dispute and the nature of suit property can be better ascertained at time of trial.

19. From the reply at Exh.24, the defendant No.1 has also disputed that not the plaintiffs but he is in possession of suit property. For which, learned Advocate for defendant No.1 relied on the revenue records filed by him at Exh.28/1 to 28/14. All these occurs to be in the name of Late Jangonda Patil and some of them in nature of present defendant Nos.2 to 4. Rather the tax payment receipts at Exh.28/1, 3 and 14 occurs

to be in the name of defendant No.1 himself. However, this position is impliedly aiding the fact pleaded by plaintiff i.e. taking of benefit of long lasting revenue records by defendant Nos.2 to 4. Defendant No.1 relied on tax assessment extract at Exh.37/1, upon perusal of said, it occurs that, the name of Jangonda is mutated over the name of Bapu@Balasaheb at the tax assessment extract of house No.662. However, it is not looking there that whether such mutation has been occurred due to a deed of transfer or not. A revenue entry, however, old in nature, cannot replace the registered the instrument. The learned Advocate for plaintiff has relied on the judgments of Hon'ble Bombay High Court in **Mr. Remedios Fernandes V/s. Dr. Alfred Costa & Ors. in 2025(1) Mh.LJ. 20**, of Hon'ble Orissa High Court in **Natabar Behera V/s. Batakrushna Das, reported in 2000(1) LJR, 567** and of Hon'ble Apex Court in **Suraj Bhan & Ors. V/s. Financial Commissioner & Ors. reported in 2007(6) SCC 186**. The crux of all these judgments in nature that the entries in revenue records does not confer ownership on a party and title can only be decided by civil Court.

20. This is the settled position of law and hence always directory for this Court. The defendant No.1 has also relied on the photographs at Exh.28/24 to Exh.28/29, the sale deed in his favour at Exh.3/7 and a tree cutting license issued by the Sangli, Miraj and Kupwad Municipal Corporation at Exh.28/20. At the same time, the plaintiff is claiming possession on the basis of two registered deeds at Exh.3/2 and Exh.3/6. Both are looking to be self evident about handing over of possession. A registered instrument always has a presumption with it that it has been acted upon its terms and conditions. In such case, the registered instruments in favour of plaintiffs occurs to be prior to that of the instrument in favour of defendant No.1. The long standing revenue records although showing the direct mutation from Late Jangonda to his

legal heirs i.e. defendant Nos.2 to 4 and then on the name of defendant No.1, but there occur two registered instruments showing how the suit property was devolved on the name of plaintiffs. At the same time, along with registered documents and other revenue records, learned Advocate for plaintiffs have also relied on the documents at Exh.33/7 and 33/8 which are in the nature of application made to Municipal Corporation for taking action against tree cutting and a complaint made to MSEB office, Kupwad. These documents are also looking to be ancillary to the other documents on which basis plaintiffs are claiming possession over suit property. However, the said records cannot override the registered instruments, which are prior in nature. From the said revenue entries, the only thing which can be said that, neither plaintiffs nor their predecessor were diligent to mutate their names on revenue records. The permit/license given by Sangli, Miraj & Kupwad Municipal Corporation may not be sufficient to discard the registered instruments as it occurs to be only in nature of a official communication and its relevancy can be better commented after full fledged trial.

21. Therefore, from the above mentioned discussion, it occurs that the documents on record are in co-ordination with the pleadings of plaintiff. It is the settled position of law that, the plaintiff need not to have entire case in his favour for temporary injunction rather he should have an arguable case in his favour which he can put up in course of trial. Thus, in my opinion, prima-facie case is in favour of plaintiffs. Accordingly, I answer point No.1 in affirmative.

AS TO POINT NO.2:-

22. This point is about the titling of balance of convenience. The term balance of convenience is generally used while weighing the

potential harm to plaintiff, if injunction is denied against the potential harm to defendant if injunction is granted. The basic case of plaintiffs revolves around the Will deed bearing registration No.2600/2023 dated 10.04.2023, which is registered and bequeathed in their favour by his predecessor Bapu@ Balasaheb Nardekar. According to the plaintiffs, they are in possession of suit property on the basis of said Will. The defendant No.1 has disputed the ability of Bapu@Balasaheb Nardekar to make such Will. He has also challenged the validity of said Will. According to him, the testator of said Will was not physically and mentally sound to make such instrument. Therefore, in the opinion of defendant No.1, plaintiffs have not required any rights in suit property on the basis of such Will.

23. While elaborating above mentioned contentions, learned Advocate for defendant No.1 pointed out that the medical certificate annexed with Will does not mention the address of doctor i.e. Dr. SanjayKumar R. Kavthekar who certified about physical and mental health of Late Bapu@ Balasaheb Nardekar. A remark has been made in handwriting that, 'he is having generalised weakness, so he can't go outside from home for any purpose'. The signatures made at different places in a Will are not looking quite different. The Will mentions the date of earlier sale deed as 15.12.1990 and the copy of sale deed at Exh.3/2 bears the date 15.11.1990.

24. The points referred by learned Advocate for defendant No.1 about non mentioning of address of certifying doctor and a remark made in a typed certificate are looking to be true as pointed out. However, this stage will be a premature stage of suit to hold them sufficient for raising suspicion over making of Will, since all the facts coming on record has to be ascertained primarily and not finally. On the same note, this will not be a proper stage to comment anything about the difference in signature in a

same Will. So also, on perusal of Will deed at Exh.3/6, the date of sale deed is mentioned as 15.12.1990, as mentioned by learned Advocate for defendant No.1. However, along with it the sale deed No.3023 is also mentioned therein. The said sale deed is also looking to be mentioned in the sale deed at Exh.3/2. In such case, this objection does not occur to be tenable at this stage.

25. Another fact pointed out by learned Advocate for defendant No.1 is that the testator and legatee in said Will i.e. Bapu@Balasaheb and plaintiffs belongs to different religion. Hence, as per the provisions of Section 63(3) and Section 213 of Indian Succession Act, the probate was a need of law to prove the said Will. For this purpose, he also relied on the citation of **Hon'ble Apex Court in Kanta Yadav V/s. Om Prakash Yadav & Ors. reported in 2019, AIR Supreme Court 5556**. However, the said objection is not looking to be raised in a reply at Exh.24 and hence cannot be taken into consideration at this stage. The case laws filed by plaintiffs of **Kantabai Mahipal Sonavane V/s. Nimba Onkar Patil, reported in 1999(4) ALL MR, 263** and **Jyoti Jagdish Singhai V/s. State of Maharashtra reported in 1979 MhLJ 308** are looking to contend the fact of requirement of probate to prove said Will, and hence, they have not discussed in detail hereinafter.

26. As discussed in discussion of point No.1, defendant No.1 has also claimed his possession over suit property and in furtherance of said contention, learned Advocate for defendant relied on the discussion as to issue No.10, in Special Civil Suit No.70/1992. Wherein it has been held by Court of C.J.S.D. that, Jangonda Raigonda Patil is in possession of suit property. However, as per undisputed position of facts, the decree in said suit was set aside in Regular Civil Appeal No.33/2023 and hence, the

observations and findings in said suit cannot be taken into consideration until the fact laid down therein is unfold on merit.

27. Another contention raised by defendant No.1 is about that he is a bona-fide purchaser of suit property without any notice of litigation pending between the predecessor of plaintiff i.e. Bapu@Balasaheb Nardekar and original owner of said property, i.e. Jangonda Patil. For the said purpose, he is relying on the search and title report conducted through an Advocate and a public notice published in daily 'Hello Prabhat' news paper, at Exh.28/22 and 28/23 respectively. Generally, the term bona-fide purchaser is referred to an innocent buyer who purchases property without knowing of any prior claims or issues with the seller's right to transfer ownership. In the present dispute, plaintiffs and defendant No.1 both are contesting ownership and possession on the basis of registered documents of title. The document in favour of plaintiff i.e. Will deed is prior in time to that of sale deed in favour of defendant No.1. However, the validity of instrument in favour of plaintiff's predecessor i.e. sale deed dated 15.11.1990 is under consideration before Hon'ble High Court in Second Appeal No.583/2008. However, due to the appellate decree of Hon'ble District Court in Regular Civil Appeal No.33/2003, the last known status of said sale deed have to be said as valid.

28. Relating to this, the defendant No.1 resisted this application on another ground that, the Hon'ble Bombay High Court on 13.02.2009 had ordered the plaintiff's predecessor to 'not to create any third party interest in suit property acting on the basis of sale deed executed by respondent No.1 in favour of respondent No.2 till decision of this appeal'. However, the plaintiff's predecessor bequeathed a Will in favour of plaintiffs on 10.04.2003, during pendency of such appeal. To justify the said devolution, plaintiffs have relied on the citations of Hon'ble Apex

Court in **S. Rathinam@Kuppamuthu & Ors. V/s. L. S. Mariappan & Ors.** reported in 2007 AIR Supreme Court 2134 and of Hon'ble Karnataka High Court in **N. Ramaiah V/s. Nagaraj S.** reported in 2001 AIR Karnataka, 395. From the above said judgments, the Hon'ble Apex Court in a case before it has laid down that, Will in its own nature ambulatory and revocable during life time. This is a settled position of law and hence always directory for this Court. However, in the present case, the testator died during pendency of second appeal and hence, the said Will have to be termed as irrevocable. Therefore, the said citation is not entirely applicable to this Case.

29. On perusal of judgment of Hon'ble Karnataka High Court it occurs that, in the said case, the alleged Will was bequeathed during status quo order of subordinate Judge during probate proceedings. Therefore, the prohibitory order in said case was of Trial Court and not of a constitutional Court like Hon'ble High Court. In such case, the said citation can be said to have a persuasive value but not entirely binding on present Court. However, at the same time, the dispute between the plaintiffs and defendant No.1 looks to be about the better title and consequent possession thereof. From the discussion made to point No.1, the possession apparently occurs towards plaintiffs. The plaintiffs have also filed at Exh.3/8, the police complaint made by them against defendant No.1 on 20.05.2025, as pleaded by them. The defendant No.1 although claimed his possession but has not filed any documents showing non obstruction on said date. Therefore, the fact of obstruction to possession of plaintiffs looks to be prima-facie clear.

30. It is the settled position of law that, the disputed questions of title can be better seen in course of trial. However, in order to prevent further complexities in a proceedings, the temporary injunction can be

granted. Therefore, looking at the aforesaid discussion, the factum of possession appears to be with plaintiffs. The obstruction to his possession apparently also looks to be in his favour. The last known status about sale deed in favour of plaintiff's predecessor also looks to be valid. At the same time, the document on which basis defendant No.1 is claiming possession is looking subsequent to that of two registered instrument in favour of plaintiffs. Although defendant No.1 has challenged the validity of Will deed in favour of plaintiffs, however, the question as to whether a stranger can challenge a registered will is under consideration. So also, the real effect of will which was bequeathed during prohibitory orders of constitutional Court can be made clear by a full fledged trial. If a possession is not protected during the meantime, then it may raise complexities in the proceedings and possibility of change in nature of suit as well as raising multiplicity of proceedings cannot be denied. Therefore, for that purpose it occurs to me that balance of convenience tilts in favour of plaintiffs. Accordingly, I answer point No.2 in affirmative.

AS TO POINT NO.3:-

31. This point is about the irreparable loss, that means a loss that is so significant or severe that it cannot be adequately compensated for remedied. From the discussion made as to the point Nos.1 and 2 it occurs that, plaintiffs and defendant No.1 both are disputing as to the better title and possession of suit property. However, the registered instruments in favour of plaintiffs are prior to that of in favour of defendant No.1. So also, the plaintiffs are also looking to be in possession. No doubt, defendant No.1 has taken defence of bonafide purchaser and filed the documents in that behalf at Exh.28/22 and 28/23 respectively. However, the veracity of such fact can only be determined after full fledged trial. Defendant No.1 has also challenged the validity of will executed in favour

of plaintiffs. However, the said will available at Exh.3/6 is looking to be registered one. Learned Advocate for defendant No.1 has pointed out some patent ambiguities in said will. However, a validity of a registered document cannot be sufficiently determined at this stage. A registered document is always presumptive of certain things. Moreover, whether the plaintiff's predecessor i.e. Balu@Balasaheb Nardekar has acted in clear and consistent manner by making a will during pendency of lis before Hon'ble High Court or not, is yet to be determined. This fact is also needed to be elaborately explained in course of trial.

32. Although contested by defendant No.1 suit property is looking to be sufficiently identified for the purpose of interim application. From the reasons assigned to point No.1, plaintiff's prima-facie appears to be in possession of suit property and looking at the police complaint made by plaintiffs at Exh.3/8, dated 20.05.2025, prima-facie obstruction to such possession can be said. In such situation, if temporary injunction is not granted, then the possibility of increasing further complexities in suit proceedings cannot be absolutely denied. The disputed question of title can be ascertained in course of trial, but protection of possession occurs to be a need of time. Therefore, looking at the discussion assigned to point Nos.1 and 2, I answer point No.3 in affirmative also.

AS TO POINT NOS.4 & 5:-

33. This issue is concerned with the entitlement of Plaintiffs as to the relief prayed. From the above-mentioned discussion, it has become clear that even there appears *prima facie* case in favour of plaintiff, point Nos.2 and 3 as to Balance of convenience as well as irreparable loss are answered in affirmative also. The remedy of temporary injunction is a discretionary remedy. The discretion of Court is always based on sound

principle of justice equity and good conscience. Hence at this stage, I consider that the plaintiffs are looking to be entitled to the relief of Temporary Injunction as prayed. Hence, I answer point No.4 in affirmative. At the same time, as many of the facts taken recourse by both the parties such as to the documents etc. requires detailed hearing, therefore, it would be proper to order parties to bear their own costs. Cumulatively, looking at the discussion for point Nos.1 to 4, I tend to pass following order in answer to point No.5.

ORDER

1. Application at Exh.5 for temporary injunction is allowed.
2. Defendant No.1 is hereby restrained from causing obstruction to the peaceful possession of plaintiffs over the suit property till disposal of present suit.
3. Parties to bear their own Costs.

Date:-26.06.2025

(Onkar S. Shastri)
5th Joint Civil Judge Junior Division,
Sangli.

CERTIFICATE

I affirm that the contents of this P.D.F file judgment/order are same, word to word, as per the original judgment/order.

Name of Stenographer :- Rafik B. Samalewale, Stenographer
Name of Court :- **Shri. Onkar S. Shastri**
5th Joint Civil Judge (J.D.), Sangli.
Date of decision/typed :- 26.06.2025
Judgment/order signed by the :- 26.06.2025
PO. on
Judgment/order uploaded on :- 26.06.2025