



ORDER BELOW EXH.5 IN REGULAR CIVIL SUIT NO.273/2025

(Aparna Kulkarni & Anr / Balkrushna Kulkarni)

(CNR NO.MHSN02-001967-2025)

Heard learned counsel for plaintiff Shri.S. S. Patil. Perused the application, affidavit and supported documents. The present suit is looking to be instituted for declaration of pre-emption right and perpetual injunction.

2. It is the basic submission of plaintiffs that, Gat No.48 and 49 situated at village Tung are the disputed properties. Defendant No.1 is the cousin of plaintiff No.2. Gat No.48 is owned by defendant No.1 and Gat No.49 is owned by plaintiffs. However the government map of the said properties is not created as per the original records. However, the relevant extract from the Tipan Book is as per the ground reality. In the government map the area in Gat No.48 has been wrongly shown as situated in Gat No.49. The defendant is trying to alienate the Gat No.48 by taking benefit of said wrong.

3. Ld. Advocate for plaintiff has relied on the government map at Exh.3/8, relevant extracts from the Tipan Book at Exh.3/9 to 3/11, notice issued by plaintiffs to defendant at Exh.3/22 and the reply notice at Exh.3/24 as well as the public notice issued by

defendant No.1 at Exh.3/28. From the said public notice at Exh.3/28, the immediate apprehension to the plaintiffs about alienation is prima facie clear. However, mere apprehension cannot be a ground to issue ad-interim injunction without establishing a prima facie case. From the very basic submissions of plaintiff, it appears that there is a dispute regarding correctness of two public documents i.e. a government map at Exh.3/8 and Tipan Book extracts at Exh.3/9 to 3/11. In such case, there is a dispute regarding exact area, location and identification of suit properties. Without making it clear that the area in Gat No.49 has been wrongly shown in the area of Gat No.48, no such ad-interim injunction can be granted. The burden to show the said thing lies on the plaintiffs and an inquiry in the nature of temporary injunction application at Exh.5 is necessary in order to avail an opportunity to plaintiff to show the said thing. Therefore, even if there is apprehension to plaintiff regarding alienation of suit properties, still unless the exact situation regarding Gat No.48 and 49 becomes clear, it will not be proper to issue ad-interim injunction in favour of plaintiff. In such case, before passing any order regarding temporary injunction, it will be proper to hear other side on merits. Accordingly, I pass following order.

ORDER

1. Issue notice to the defendant as to why the interim injunction should not be allowed as prayed, notice R/o 04.10.2025.

2. Plaintiffs to provide the copies of Exh.1 and Exh.5 for the purpose of service of summons on defendant.
3. S.B. allowed, if prayed.

Sangli
Date:-29.09.2025

(Onkar S. Shastri)
5th Jt. Civil Judge Jr. Dn., Sangli