

Order below e-Exh.5 in RCS 36/2025
Samabai Dhondiba Shelke Vs Prakash Biru Shelke and Ors
(CNR-MHSN08-000344-2025)

The interim injunction application is under Order 39 Rules 1 and 2 of the Code of Civil Procedure, 1908 (the C.P.C).

2 Perused the application, and the record.

3 Heard.

4 Brief facts of the plaintiff's case:- The suit is for measurement, fixation of boundaries, and a decree of perpetual injunction. It has been submitted that the suit property more particularly mentioned in para 1 of the plaint, has been purchased by the plaintiff from his deceased father Dhondiba on or about 14/06/2012. The defendants are the brothers and sisters of the plaintiff. The plaintiff has put up a shade(Chapper) for residence. The plaintiff owns and possesses the suit property. The defendants 1 and 2 objected to the mutation, pursuant to the sale deed in favor of the plaintiff. The deceased Dhondiba passed away on 16/10/2015. The mutation entry was confirmed in the revenue appeal. The defendants 1 to 3 are obstructing the plaintiff's possession. The plaintiff requested the defendants to get the boundaries fixed in the last week of December 2014. Hence, the present application.

5 It is settled law, that for grant of ex-parte ad-interim relief, an exceptional case, of grave hardships, wherein, issuance of notice to the other side would caused grave and irreparable injury has to be passed. In short, prima-facie, a case has to be made out wherein issuance notice would defeat the purpose of filing the interim injunction application.

6 Considering the material on record, it prima-facie, appears that the plaintiff owns and possesses the suit property. The description of the suit property is same as mentioned in the sale

deed. The tax receipts prima-facie, evidences that the plaintiff is residing in the house in the suit property. A copy of the revenue appeal 26/2013 Dt.27/03/2015 is on the record which clearly suggest that the ME 1265 has been affirmed/confirmed. If, the facts are prima-facie, considered vis-a-vis the averments in para 4 of the plaint, there is a mention of the fact, that the deceased Dhondiba sold the suit property to the plaintiff, by actually measuring the suit property, by fixing the boundaries thereof and thereafter, delivered the possession. Prima-facie, nothing to suggest that the defendants have damaged or demolished the bandh or the boundaries etc., Therefore, no exceptional case of hardships may be said to be made out by the plaintiff for grant of ad-interim relief. The merits may be considered on appearance on the defendants for which a short notice if required. Hence, the following

Order

The prayer to grant of ad-interim relief is hereby rejected.

2 Issue show cause notice to the defendants as to why interim relief s prayed for should not be granted.

3 EP and SB allowed, if required.

Jath
Date:25/03/2025

(Sanjay P.Bunde)
Jt.CJJD, Jath