

MHSO070000872025



ORDER ON EXH. 5 IN R.C.S.No.91/2025
(Passed on 24th November 2025)

1. The plaintiff has filed present application under Order 39 Rule 1 and 2 of C.P.C. against defendants seeking prohibitory injunction not to obstruct his possession in any manner over suit property. Defendants filed their say at Exh.19. Heard Advocates for both sides. Perused the record.

2. It is the case of plaintiff that he purchased suit property from Sanjay Sahebrao Nagane by registered sale-deed dated 25.04.2024. His name is mutated to revenue record by M.E.No.7933. The suit property is particularly described as agricultural land admeasuring 50R. situated towards north side of Gat No.247/1, total admeasuring 2H-13R. with potkharaba 21R. situated at village Palashi, Tal. Pandharpur, Dist. Solapur which is bounded as follows :-

On or towards East :- Land of Rahul Dnyaneshwar Bagal
On or towards South :- Palashi to Gadegaon road and ahead
of it remaining land of Gat No.247/1
On or towards West :- Land of Samadhan Sukhdev Bagal
On or towards North :- Upari-Palashi boundary.

This suit property consist of one water Well alongwith electric motor of 5 H.P. It also consist of active bore-well with 3 H.P. electric motor. (Hereinafter referred as 'suit property' for the sake of brevity).

3. It is the case of plaintiff that defendant No.2 is his uncle and defendant No.1 is son of defendant No.2. While doing agricultural work in the suit property on 04.05.2024 defendants obstructed him. Upon confrontation they verbally cursed and attempted to assault plaintiff. Therefore, plaintiff registered non cognizable report bearing No.273/2024 at police station. Similarly, on 10.12.2024 defendant No.2 illegally cut grass from the suit property and was taking it away. When plaintiff confronted him, he threatened the family of plaintiff. Thus, plaintiff registered N.C.No.703/2024. Thereafter, also defendants continued to obstruct the possession of plaintiff. Hence, this suit is filed.

4. The defendants objected all contentions of the plaintiff. They submitted that the land was owned by father of defendant No.2 namely Dnyanu Sopan Bagal. Due to family necessity and economical crisis, they borrowed amount of Rs. 2,70,000/- from Sanjay Sahebrao Nagane. He is money-lender. He was ready to lend money at the rate of 4 per cent but, he demanded to mortgage 50R land. Thus, Dnyanu Bagal mortgaged 50R. land out of Gat No.247/1 situated towards north side in the favour of Sanjay Nagane. For this purpose he executed void sale-deed dated 24.01.2017 and registered it. However, it was agreed between the parties that upon payment of borrowed money, Sanjay Nagane will execute sale-deed in favour of Dnyanu Bagal.

5. Upon repeated insistence on the part of Sanjay Nagane for interest amount, defendant No.2 and his father paid

Rs.7,00,000/- on 05.10.2020 and Rs. 4,00,000/- on 30.01.2022 to Sanjay Nagane. However, he refused to execute sale-deed in favour of father of defendant NO.2 and again demanded Rs.5,00,000/- towards unpaid interest. Due to repeated demands from Sanjay Nagane and insults, Dnyanu Bagal was in mental shock and he died on 24.12.2023. On 07.01.2024 defendant No.2 was working in the suit property when Sanjay Nagane obstructed his work and threatened him with demand of Rs.5,00,000/-. When defendant No.2 came to know that Sanjay Nagane is about to sold the property, he gave legal notice on 20.04.2024 and public notice in newspaper on 21.04.2024. He also gave complaint to police on 26.04.2024 and 04.05.2024. Inspite of this Sanjay Nagane executed sale-deed in favour of plaintiff on 25.04.2024. Thus, defendants gave legal notice to Sanjay Nagane and plaintiff on 26.04.2024.

6. Defendants never parted with possession. The sale-deed dated 24.01.2017 was void and without possession. Therefore, neither Sanjay Nagane nor plaintiff was in possession ever. Therefore, no question arises of disturbing his possession. Hence, defendants prayed to reject the application.

7. In view of rival pleadings and contentions of both the parties following points arise for determination and findings thereon alongwith reasons are mentioned below:-

<u>Sr. No.</u>	<u>Points</u>	<u>Findings</u>
1.	Does plaintiff has established prima facie case in his favour ?	Affirmative.

<u>Sr. No.</u>	<u>Points</u>	<u>Findings</u>
2.	Whether the balance of convenience lies in favour of the plaintiff ?	Affirmative.
3.	Does plaintiff prove that they will suffer irreparable loss, if temporary injunction is refused ?	Affirmative.
4.	What order?	As per final order.

REASONS

Point No.1 :-

8. Plaintiff has filed this suit seeking simplicitor relief of injunction against defendants. Plaintiff is claiming his possession through the title deed executed in his favour dated 25.04.2024. On the other hand, defendants are claiming possession over suit property by stating that it was owned by deceased father of defendant No.2. Deceased father namely Dnyanu Bagal sold the property towards the loan borrowed from Sanjay Nagane. The sale-deed was infact mortgage deed with conditional sale. However, Sanjay Nagane inspite of repayment of loan, refused to execute sale-deed in favour of father of defendant No.2. They never parted possession of suit property in favour of Sanjay Nagane. Thus, plaintiff is not in possession of the suit property.

9. Transaction of purchase by plaintiff from Sanjay Nagane is not disputed. The sale in favour of Sanjay Nagane by deceased Dnyanu Bagal is also not disputed. Defendants have disputed the nature of transaction between deceased Dnyanu Bagal and Sanjay Nagane. This sale-deed had been executed on

24.01.2017 by registered sale-deed for consideration of Rs.2,70,000/-. Defendants have not produced copy of this sale-deed. They have produced M.E.No.5689, by which name of Sanjay Nagane is mutated to suit property (Exh.23/1). After perusal of this mutation entry it can be seen that though the sale-deed was registered on 24.01.2017 and information was given to revenue office on 24.01.2017 mutation entry is certified on 28.02.2018. After perusal of remark it can be seen that after expiration of appeal period against the decision in a complaint received the mutation entry has been certified. Thus, it is evident that change in name title was disputed but, it has been decided in favour of Sanjay Nagane.

10. Sanjay Nagane sold this property to plaintiff on 25.04.2024. Thus, from the execution of first sale-deed i.e. 24.01.2017, the sale-deed has not been challenged before any Court. Defendants have not pleaded any such fact. They have relied on another suit which is filed by Shahaji Dnyanu Bagal bearing R.C.S.No.109/2019 (Exh.23/25) filed for partition against Dnyanu Bagal, his sons, defendant No.1 and Sanjay Nagane. It is argued by Advocate for the defendants that in this suit it is pleaded that suit property is joint family property and sale-deed executed by deceased Dnyanu Bagal in favour of Sanjay Nagane was without family necessity. Thereby Advocate for defendants relied that suit property was never given in the possession of Sanjay Nagane. However, this suit has been disposed being compromised between the parties. However, what terms have been settled between the parties has not been brought

on record. Therefore, at this prima-facie stage pleadings from R.C.S.No.109/2019 are of no help to the defendants.

11. Defendants have produced multiple notices and complaints given to Police, Registrar of Co-operatives society, Sub-Registrar Pandharpur vide Exhs. 23/5, 23/10, 23/15, 23/16 and 23/23. However, all these notices and complaints have been filed after 20.04.2024. No action has been taken by defendants against sale-deed in favour of Sanjay Nagane or mutation entry No.5689 in his favour. Since 2017 till 2024 defendants have not actively any steps against document executed in favour of Sanjay Nagane. They have not produced any document which will show that they have objected say in favour of Sanjay Nagane.

12. Defendants stated that on 24.01.2017 the document of mortgage by conditional sale was executed. However, it was titled as sale-deed. But, as stated above this document for perusal of its terms and conditions, has not been produced by the defendants on the record. From the available mutation entries and 7/12 extracts, the name of Sanjay Nagane firstly and then name of plaintiff being in the owner column of revenue record is evident. It is the case of defendants that Sanjay Nagane executes private money-lending business without any authority. They had filed complaint with Deputy Registrar of Co-operative Society on 26.04.2024. The plaintiff has filed copy of order passed by Deputy Registrar dated 02.07.2025 (Exh.25/1) against this complaint. It shows that defendants could not produced any satisfactory document or evidence to show that Sanjay Nagane

was carrying illegal money-lending business. Thus, complaint filed by defendants was dismissed. Thus, at present the theory of defendants that the sale-deed dated 24.01.2017 was infact a mortgage deed against money borrowed from Sanjay Nagane is not established prima-facie.

13. Defendants stated that they have repaid the amount borrowed. On 05.10.2020 and 30.01.2022 they paid total amount of Rs. 11,00,000/- to Sanjay Nagane, but he refused to execute sale-deed in their favour. Defendants have not produced any prima-facie document to show that on those dated they had that much amount and it has been paid to Sanjay Nagane. Therefore, the entire theory of defendants that the suit property was mortgaged to Sanjay Nagane and possession was never given to him is not maintainable. Defendants also challenged mutation entry in the favour of plaintiff before Circle Officer Bhalwani. The complaint has been rejected and M.E.No.7933 is confirmed by order dated 29.07.2024 (Exh.23/8). Therefore, the transaction in favour of plaintiff in respect of suit property has been prima-facie established.

14. Plaintiff has produced copy of gift-deed executed by deceased Dnyanu Bagal in favour of defendant No.1 (Exh.25/3). Gift-deed is executed on 24.01.2017 and registered at Sr.No.299/2017. Deceased Dnyanu Bagal on the same day executed sale-deed in favour of Sanjay Nagane which is registered at Sr.No.298/2017. It is argued that the Dnyanu Bagal was present in the office of Sub-Registrar on 24.01.2017 and he

executed both documents i.e. sale-deed as well as gift-deed. Thus, defendants were also present on that day in the office of Sub-Registrar and they were aware about the sale-deed executed in favour of Sanjay Nagane. In spite of that defendants have not taken any action against Sanjay Nagane. In R.C.S.No.109/2019 both these transactions were challenged, which were executed by deceased Dnyanu Bagal. If defendants at present are disputing the alienation in favour of Sanjay Nagane, then alienation in favour of defendant No.1 will also be under scanner, in view of pleadings of R.C.S.No.109/2019. However, defendants have selectively relied on favourable pleadings from the said suit. This is not acceptable. The relief of temporary injunction is equitable relief and thus, selective interpretation of pleadings cannot be considered.

15. Sale-deed executed in favour of plaintiff is not disputable fact. As on today his sale-deed is not challenged before any Court by defendants. His mutation entry i.e.7933 is challenged before S.D.O. by defendants and R.T.S. appeal is pending. However, it is settled principle of law that unless document of change of title is cancelled or set-aside by any Court, mere change in revenue record will not affect the right of title accrued under sale-deed. It is also argued on the part of defendants that apart from sale-deed and revenue record, the plaintiff has not produced any document to show his possession. However, the 7/12 extract and sale-deed resist presumption that plaintiff is in possession of the suit property. On the contrary, defendants have not produced any prima-facie document to show

that they are in possession of the suit property. While arguing the language in non cognizable report dated 04.05.2024 and 10.12.2024 (Exh.4/4 and 4/5) is discussed and submitted that from the language of information of offence, plaintiff is not appears to be in possession. However, such inference cannot over power the possession which follows the title. It is presumption of law that possession follows title, unless contrary is proved. In this case defendants failed to prove their possession. Thus, plaintiff's possession following his title over suit property is prima-facie established.

16. With specific dates of 04.05.2024 and 10.12.2024 plaintiff has specifically pleaded obstruction to his possession. He has also promptly notified police about obstruction caused and registered non cognizable report. Defendants have also registered non cognizable report on 04.05.2024. However, in view of possession of plaintiff being established prima-facie, at present non cognizable report filed by defendants is not sufficient to construe their possession. The obstruction at the hands of defendants to the possession of plaintiff is prima-facie established. Thus, plaintiff has triable case and therefore the plaintiff has established prima-facie case in his favour. Hence, **point No.1 is answered in the affirmative.**

Points No.2 and 3 :-

17. The plaintiff has established prima-facie case in his favour. He has also established obstruction to his possession at the hands of defendants. The title-deed of suit property is in favour of

plaintiff. Plaintiff has filed suit to protect his right over suit property. Thus, if injunction is not granted, plaintiff will suffer irreparable loss. His possession might be in danger. On the contrary, defendants are not in possession of suit property since 24.01.2017, prima-facie. Therefore, no prejudice will cause to them. Hence, balance of convenience lies in favour of plaintiff. Thus, possession of plaintiff is required to be protected. Hence, **points No. 2 and 3 are answered in the affirmative.**

Point No.4 :-

18. On the backdrop of above discussion, plaintiff has established prima-facie case, balance of convenience lies in his favour and he will suffer irreparable loss, if injunction is refused. Therefore, for point No.4 following order is passed.

ORDER

1. Application at Exh.5 is allowed.
2. Defendants, their agent, representatives or any person claiming through them are temporarily restrained from obstructing possession of plaintiff over suit property in any manner till the final disposal of suit.
3. Costs in cause.

Pandharpur.
Date : 24.11.2025.

(Smt. S.S.Raul)
Jt. Civil Judge, Junior Division,
Pandharpur, Dist.- Solapur.

Certificate

I affirm that, the contents of this PDF file Order/Judgment are same word to word, as per original Order/Judgment.

Name of Stenographer	:- D.S.Landage (Grade-III)
Court	:- Jt. Civil Court,J.D., Pandharpur.
Date	:- 24.11.2025.
Judgment/Order signed by the Presiding Officer	:- 24.11.2025.
Judgment/Order uploaded on	:- 24.11.2025.