

MHSO070001402018



Order below Exh.05 in RCS No. 122/2018

- 1) Plaintiff has filed the Suit for specific performance of contract. He has presented this application under Order 39, Rule 1 & 2 of the Civil Procedure Code for seeking a relief of temporary injunction against the defendant No.1 restraining him from creating third party interest over the property i.e gat no. 65/1 1H 0R land, more specifically described in para 1 of the plaint (hereinafter referred to as “Suit Property”) till disposal of the suit.
- 2) The plaintiff avers that the Suit Property is his and defendant No.1’s ancestral property and is in the name and possession of defendant No.1. He further averred that defendant no.1 is now trying to sale the land to defendant No. 3 and is trying to create third party interest on the land. Hence plaintiff was forced to file the present application.
- 3) The defendant No.1 filed his written statement to the main suit. Heard Ld. Advocate for the plaintiff. Called for the defendant but nobody appeared and argued the application. Perused the application and all the documents on record.
- 4) On the strength of rival pleadings and contentions of both the parties, following points emerge for my consideration. I have noted my findings on all points for reasons mentioned there below:-

	<u>POINTS</u>	<u>FINDINGS</u>

i)	Whether the plaintiff has made out a prima facie case for seeking relief of temporary injunction ?	Affirmative
ii)	Whether the plaintiff would suffer an irreparable loss, if temporary injunction is not granted against defendant No.1 ?	Negative
iii)	Whether the balance of convenience lies in favour of plaintiff ?	Negative
iv)	What order?	Application is rejected

REASONS

5) **AS TO POINT NOS. 1 to 3 :- (Prima facie case, Balance of Convenience and Irreparable loss)** As the points are interlinked I, took the point collectively for consideration.

At the outset it is necessary to mention that when the applicant prays for injunction, he must make out a prima facie case in support of the rights claimed by him and that the court must be satisfied that there is a bonafide dispute raised by the applicant, there is a strong case for trial which needs investigation and a decision on merits and on the facts before the court there is probability of the applicant being entitled to the relief claimed by him. Thus, existence of prima facie right and infraction of such right is a condition precedent for grant of temporary injunction and obviously the burden lies upon the applicant to satisfy by leading evidence or otherwise that he has a prima facie case in his favour. Admittedly, the present suit is filed by plaintiff against defendants for specific performance of contract. To show his prima facie case he has

placed on record agreement to sale. Even considering that, plaintiff has not shown what defendant is doing to transfer and create third party interest. Injunction is to be granted if court observes or finds that there is imminent danger to the suit property, and in present case at this stage plaintiff is saying that defendant is trying to create third party interest but exactly how it is not brought on record. Hence considering the fact at this stage even if the plaintiff is having right or interest, he surely is not seen to suffer any irreparable loss and balance of convenience is not seen in the favor of plaintiff at this stage. Admittedly defendant No.1 is in possession of the suit property and the extract of the land is in the name of defendant No.1. Whether the plaintiff is having right or interest in the suit property will be decided after a thorough inquiry in the matter. Mere stating that defendant is trying to create third party interest will not suffice, hence I answer point no.1 in affirmative and point nos. 2 and 3 in the negative.

(6) **AS TO POINT NO. 4** :- Having observed as above and after recording my findings, I am of the considered view that, plaintiff has failed to show what irreparable damage he is going to suffer and how balance of inconvenience is in his favor under Order 39 Rule 1 and 2 of the Civil Procedure Code for grant of relief of interim injunction. Therefore, this application deserves to be rejected. Hence Order ,

ORDER

- 1] Application Exh. 5 stands rejected.
- 2] No order as to costs.
- 3] Parties to proceed further.

Pandharpur.
Date: 13.03.2026

(K.J. Khomane)
2nd Jt. Civil Judge Junior Division,
Pandharpur.

CERTIFICATE

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

Name of the Stenographer	-	A.B. Sandrok
Court	-	2 nd Jt. CJJD & JMFC, Pandharpur.
Date of Judgment/Order	-	13.03.2026
Judgment/Order signed by the Presiding Officer on	-	13.03.2026
Judgment/Order uploaded on	-	14.03.2026