

MHSO070006652025



ORDER ON EXH. 5 IN R.C.S. No.547/2025
(Passed on 01st April 2026)

1. The plaintiffs have filed present application under Order 39 Rule 1 of C.P.C. against defendants seeking prohibitory injunction not to obstruct their peaceful possession and not to obstruct them from cultivating any crop and harvesting sugarcane crop in the suit property. Defendants filed their say at Exh.21. Heard Advocates for both sides. Perused the record.

2. It is the case of plaintiffs that land properties are agricultural properties situated in village Bhose, Tal. Pandharpur, Dist. Solapur which are described as follows :-

Sr. No.	Gat No.	Area	Boundaries			
			East	South	West	North
A.	740/A	3H:70R	Gat No.741, 742	Gat No. 743	Road	Gat No. 737, 738
B.	101	0H-15R	Gat No. 106	Gat No. 102	Road	Gat No. 100
C.	106	0H-15R	Stream	Gat No. 105	Gat No. 101	Gat No. 100
D.	266/1/D	3H-84R Potkharaba 0.08R.	Gat No. 266/1D	Gat No. 266/1C	Gat No. 266/1B	Stream
E.	260	1H:52R	Gat No. 266	Gat No. 266	Gat No. 261	Gat No. 259

Out of these properties present suit is filed in respect of property mentioned at Sr.No.A i.e. Gat No.740/A. (Hereinafter referred as '**suit property**' for the sake of brevity).

3. Plaintiffs submitted that defendant No.1 is the brother of plaintiff No.1 and defendant No.2 is their mother. Their father namely Sopan Sadashiv Thite was removed from the house by defendants in the year 2013. Since then he was living with

plaintiffs till his death dated 15.05.2020. Suit property i.e. Gat No.740/A had original survey No.210/1+4, 211 and after consolidation it became Gat No.740/A. The property was originally owned by grand-father of plaintiff No.1 and defendant No.1 namely Sopan Krushnaji Thite. During his lifetime, he partitioned his properties and gave suit property to the share of father of plaintiff No.1 and defendant No.1. Their father namely Sadashiv also partitioned his properties in the year 1998. However, he kept the suit property in his own name.

4. When defendant No.1 threw his father out of house, and he started residing with plaintiff, he sold the suit property in favour of plaintiff to cover his expenses. Sale-deed is executed on 21.04.2012. Since then plaintiff No.1 became owner of suit property. Suit properties No.1B and 1C are self acquired properties of plaintiff No.1. Suit property 1D is in the name of plaintiff No.2 and suit property 1E is in the name of plaintiff No.3. Defendant No.1 got aggrieved by sale-deed executed by their father in favour of plaintiff No.1 in respect of suit property. Being aggrieved by this transaction, he filed R.C.S.No.455/2012 for partition and cancellation of this sale-deed. Defendant No.2 had filed application before Sub Divisional Officer under section 9 of Senior Citizens and Parents Maintenance Act, 2007 bearing No.19/2025 in which cancellation of this sale-deed was prayed. However, this application was rejected on 13.10.2025.

5. Being aggrieved by this decision defendants obstructed harvest of sugarcane crop in suit property on 30.10.2025 at

04.30 P.M. At that time defendant No.2 put herself before the Tractor which was called for transport of harvested crop. On 31.10.2025 again plaintiff requested defendants to allow his sugarcane crop to be sent to factory. However, they paid no heed. On 01.11.2025 again defendants obstructed tractor carrying sugarcane crop around 07.00 P.M. Defendant No.2 rolled in front of tractor and obstructed it from entering into field. Thus, plaintiff lodged FIR on 01.11.2025. To prohibit defendants from their action this suit is filed. It is further submitted by plaintiffs that the crop of sugarcane is standing in the field and ready for harvest. If it is not sent to sugar factory immediately, the whole crop will be damaged. Thus, it will cause loss to the plaintiffs.

6. Defendant rejected all the contentions. It is submitted that plaintiffs have not come to the Court with clean hands. They have suppressed material facts. R.C.S.No.455/2012 is still pending. This relief can be sought in that suit. The facts stated in the plaint and facts stated in written statement in R.C.S.No.455/2012 are different and contrary to each other. Suit property is joint family property. Their grand-father namely Sopan Thite was the owner of the suit property. After partition, suit property was given to the share of Sadashiv Sopan Thite to be kept for his family. Thus, it was family property. Sadashiv Thite was *karta* of the family. Defendants have undivided 1/4th share each in the suit property. Without any legal necessity Sadashiv Thite alienated joint family property in favour of plaintiff No.1. This sale-deed is challenged in R.C.S.No.455/2012. Therefore, present application is filed only to deter the defendants from

prosecuting the previous suit. It is pleaded by defendants that they have cultivated suit property jointly and sugarcane crop in it has been cultivated by them together. They have never obstructed the possession of the plaintiffs. Plaintiffs have twisted the facts and therefore, they are not entitled for the equitable relief of injunction.

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.	Do plaintiffs have established prima facie case in their favour ?	Affirmative.
2.	Whether the balance of convenience lies in favour of the plaintiffs?	Affirmative.
3.	Do plaintiffs 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. Plaintiffs have pleaded that suit property Gat No.740/A was owned by their grand-father namely Sopan Thite. He partitioned the suit property and it came to the share of their father namely Sadashiv Sopan Thite. It had original survey number prior to consolidation as 210/1+4 and 211. These facts are proved by ME No.4342 (Exh.4/9). Defendants have also

admitted these facts. Real dispute starts from this point. It is the case of plaintiffs that Sadashiv Thite partitioned properties owned by him amongst family members and kept suit property for himself. He relied on ME No.2415 (Exh.4/10). It is executed by order dated 01.02.1990 as per order passed by Tahsildar Pandharpur. In this partition properties were given to the share of plaintiff No.1, defendant No.1 and defendant No.2. However, in this partition suit property was not included. It is submitted by plaintiffs that it was kept by their father Sadashiv for himself.

9. Defendants disputed this fact. They pleaded that though suit property was given to the share of their father after partition, he kept it as a *Karta* for their joint family. The suit property is a joint family property and therefore, deceased Sadashiv had no right to alienate it in favour of plaintiff No.1 in absence of any legal necessity. Thus, he also filed R.C.S.No.455/2012 (Exh.4/15) wherein the same dispute has been raised. Copy of sale-deed by which deceased Sadashiv sold suit property in favour of plaintiff No.1 is filed at Exh.28/1. Thus, as on today the sale-deed executed in favour of plaintiff No.1 is enforce. Defendants have not challenged this sale-deed in their R.C.S.No.455/2012. No relief in respect of sale-deed has been sought in the said suit. At the time of adjudicating interim application, it is necessary to see existence of right in the property. At present from the prima-facie perusal of all documents on the record, it can be seen that sale-deed of suit property and 7/12 extract alongwith corresponding mutation entry are in the name of plaintiff No.1. Therefore, the title of the suit property is in the

name of plaintiff No.1. In case of immovable property title follows the possession unless otherwise proved.

10. The plaintiff has also produced various receipts vide Exh.32. However, non of these receipts bears any Gat number for which the water has been supplied or from which land the sugarcane has been sent to the sugar factory. Therefore, at present they cannot be relied upon. However, plaintiff has also filed no due certificate given by Jyotirling Canal Water Uses Society (Exh.37) wherein it is stated that plaintiff No.1 has fetched water from the concerned canal for irrigating Gat No.740/1 admeasuring 3H:70R in each season. Plaintiff No.1 has also paid all water bills and there are no dues. This strengthens the case of plaintiffs that he is in possession of suit property and cultivating crops into it. On the other hand, the defendants though claimed that they have cultivated the suit property jointly with plaintiffs, they have not produced any prima-facie documents to establish their claim.

11. The Advocate for the plaintiffs relied on judgment of Hon'ble Supreme Court in the case of **Angadi Chandranna Vs. Shankar & Others Civil Appeal No.5401 of 2025 dated 22.04.2025**. In this case it is held that joint family properties divided among brothers through partition-deed, after partition each party gets a separate and distinct share and this share becomes their self acquired property. They have absolute right over it and they can sell, transfer or bequeath it as they wish. It is emphasized by plaintiffs in this case that after partition suit

property became self acquired property of deceased Sadashiv. Thus, he had every right to alienate it in favour of plaintiff No.1.

12. On the other hand to prove their case, Advocate for defendants relied on judgment of Hon'ble Supreme Court in the case of **Sushil Kumar and Another Vs. Ram Prakash and Others AIR 1988 SC 576**. It is held that a co-parcener takes by birth an interest in the ancestral property but he is not entitled to separate possession of co-parcenary estate. His rights are not independent control of the *Karta*. It would be for the *Karta* to consider the actual pressure on the joint family estate. Co-parcener cannot interfere in acts of management. The facts of the present case are completely different than that of cited case. In the cited case alienation made by *Karta* of the family was challenged. In the present suit such alienation is not challenged and it is not the subject matter of the suit. In the cited case right of co-parcener to maintain a suit for permanent injunction under Section 38 of Specific Relief Act of restraining the manager or *Karta* of joint Hindu family from alienating co-parcenary property and maintainability of such suit was discussed. Thus, this ratio is not applicable to the present case.

13. He further relied on **Anathula Sudhakar Vs. PBuchi Reddy & Others AIR 2008 SC 2033**. In this case it is held that suit simplicitor for permanent injunction without seeking declaration of title is not maintainable when title is seriously disputed. When it is necessary to file a suit for declaration then suit simplicitor for permanent injunction will not lie. It is argued by the defendants

that title of the plaintiff No.1 in respect of suit property is disputed. Thus, present suit is not maintainable. Though, defendants are disputing the title of the plaintiff No.1, they have filed R.C.S.No.455/2012. But therein defendants failed to challenge the sale-deed executed in favour of plaintiff No.1. Therefore, in presence of valid sale-deed being enforce in favour of plaintiff No.1, such plea cannot be raised by defendants. Therefore, cited ratio is not applicable to the facts of the present case.

14. Defendants further relied upon judgment of Punjab & Haryana High Court in case of **Bachan Singh Vs. Swaran Singh AIR 2001 P & H 112**. In this case the criteria for seeking injunction by one co-owner against another are narrated. In paragraph No.15 of the judgment these scenario are mentioned. However, none of them is applicable to the present case. Moreover, it is the case of defendants that he is co-owner of the suit property but suit property is in the name of plaintiff No.1 since 21.04.2012. Thus, sale-deed is enforce for around 14 years as on today. It has not been cancelled or set-aside by any competent court. Therefore, considering the subject matter of the dispute, prima-facie case to be established by plaintiffs is that whether they are in possession of the suit property or not. As discussed above by way of sale-deed, 7/12 extract, mutation entry and no dues certificate filed by plaintiffs on the record, their possession is prima-facie established on the record.

15. Plaintiffs have also filed photographs of the eventful

dates when defendants obstructed harvesting of their crop. Though defendants have denied of causing obstruction, the photographs depict the contrary story. Both parties have also filed non cognizable offences report against each other. This shows the dispute over suit property between the parties. Accordingly, plaintiffs have established their prima-facie possession over suit property. Defendants failed to establish their joint possession over suit property. Therefore, plaintiffs have proved that they have triable case. Accordingly, **point No.1 is answered in the affirmative.**

POINTS No.2 AND 3 :-

16. The plaintiffs have established prima-facie case in their favour. The act of obstruction has been specifically pleaded to have been caused on 30.10.2025 at 04.30 P.M. and on 01.11.2025 at 07.00 P.M. Both these acts have occurred upon the suit property when plaintiffs attempted to harvest their sugarcane crop for the purpose of sending it to sugar factory. Plaintiffs have filed 16 photographs at Exh.4/20 showing the act of obstruction at the hands of defendants. On 01.11.2025 they have also lodged FIR at Karkamb Police Station bearing C.R.No.308/2025. Therefore, the act of defendants causing obstruction to the possession of plaintiffs is prima-facie proved on the record. Plaintiffs are found to be in prima-facie possession of the suit property. They are cultivating sugarcane crops into it (Exh.4/1). Therefore, if defendants are not restrained from disturbing the possession of plaintiffs, it will cause irreparable loss to the plaintiffs. They will not be able to cultivate the suit property and harvest any crop.

This will result into land becoming barren and it will strip off income source from the plaintiffs. Thus, balance of convenience lies in the favour of plaintiffs. On the other hands, defendants have failed to bring any prima-facie evidence on the record to show their joint possession. Thus, they will not suffer any irreparable loss if injunction is granted. Accordingly, **points No. 2 and 3 are answered in the affirmative.**

POINT No.4 :-

17. On the backdrop of above discussion, plaintiffs have established prima-facie case, balance of convenience lies in their favour and they 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 plaintiffs from cultivating, harvesting any crop into the suit property and from disturbing their possession over suit property; in any other manner till the final disposal of suit.
3. Costs in cause.

Pandharpur.
Date : 01.04.2026.

(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	:-	01.04.2026.
Judgment/Order signed by the Presiding Officer	:-	01.04.2026.
Judgment/Order uploaded on	:-	01.04.2026.