

MHSO070009772014



Order below Exh.57 in RCS No. 198/2018

1) Plaintiff has filed the Suit for specific performance of contract and permanent injunction. 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 restraining him from creating third party interest over the suit property i.e gat no. 104, OH 79R, 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 was owned originally by defendant’s mother on condition under *Mahar Vatan*. Her name was entered on 7/12 extract. He further stated that the suit property is owned and possessed by defendant and the same was agreed to sale in the year 2000 to plaintiff. The amount of consideration was decided between them to be for Rs.20,000/- and out of the said amount plaintiff paid Rs. 19,000/- to the defendant during *Sathe Khat* on 02/06/2000 in cash. Since then the physical possession of the property handed over the plaintiff. The plaintiff is ready and willing to specifically perform the said agreement but if defendant succeed in creating third party interest, plaintiff will suffer irreparable loss, hence prayed to grant temporary injunction against defendant.

3) On the other hand defendant filed his say to the present application and objected the application, stating that it is not true. He further stated that the suit property is belongs to defendant’s mother, who

died. He also stated that his mother used to cultivate the land and present defendant due to his work is residing at Mumbai. He also stated that his mother has never agreed to sell any part to any one as she was never a need of monetary help. He also stated that plaintiff to the benefit of her age and asked her to make him (plaintiff) her POA, upon which defendant's mother, plaintiff and one unknown person on 02/06/2020 went to Tahsildar Office at Pandharpur and took her thumb impressions on various documents without her consent. The defendant's mother came to know about the same when she received the summons in present matter. During the pendency of the suit defendant's mother died on 04/10/2024 and present defendant came on record. The contentions given by the plaintiff are not true and hence prayed that this application be rejected with costs.

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 ?	Affirmative
ii)	Whether the plaintiff would suffer an irreparable loss, if temporary injunction is not granted against defendant ?	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 defendant for specific performance of contract. To show his prima facie case he has placed on record agreement to sell, possession receipt of the suit property. 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 the 7/12 extract of the land is in the name of defendant. 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 convenience 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. 57 stands rejected.
- 2] No order as to costs.
- 3] Parties to proceed further.

Pandharpur.
Date: 25.03.2026

(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	-	25.03.2026
Judgment/Order signed by the Presiding Officer on	-	25.03.2026
Judgment/Order uploaded on	-	25.03.2026