

**ORDER BELOW EXH.18**

This application is filed by defendants stating that present suit is filed on 23.09.2025 through Adv. Halnur who is from Ahilyanagar. Application for temporary injunction was filed at Exh.5 along with the suit. The defendants appeared through learned advocate on 15.10.2025 and filed say and written statement in detail. Thereafter, matter was pending for argument on Exh.5 on 23.09.2025, 15.10.2025, 30.10.2025, 12.11.2025, 11.12.2025, 09.01.2026, 13.02.2026, 13.03.2026, but plaintiff deliberately avoided to argue on Exh.5 because he was not sure of success. Thereafter, matter was kept on 07.05.2026. Suddenly, Adv. Halnur appeared on 25.03.2026 and moved an application at Exh.14 to take the matter on board. Defendants were not present in the court. He filed new application for temporary injunction at Exh.15. Defendants' say was called. Learned advocate for the defendants' filed say, which does not contain signature of the defendants. Defendants' learned advocate prayed for argument on Exh.5. But, learned advocate for the plaintiffs obtained order of status by misleading the court on Exh.15. Defendants have no idea about all this. Learned advocate for the plaintiffs took prolonged next date which is 07.05.2026.

2. Order of status quo was passed below Exh.15 behind back of the defendants. Therefore, the plaintiffs were required to comply order XXXIX, Rule 3 of the CPC, but they did not comply those provisions. The defendants served great loss due to the order of status quo at Exh.15. Tremendous stress developed among plaintiffs and defendants due to this order of status quo and it caused situation of law and order. Plaintiffs have misused order of status quo. Plaintiffs showed this order of status quo to the police machinery and assaulted the defendants on the basis of that order. Order of status quo is uncertain hence it caused stress. Therefore, it is necessary to take

immediate hearing on Exh.5 by vacating the order of status quo on Exh.15. The manner in which application of the plaintiffs was taken on board urgently, in similar manner defendants' application also be taken on board urgently and immediately argument on Exh.5 be heard and Exh.5 be decided immediately. If the plaintiffs or their learned advocate are not present, then order of status quo below Exh.15 be vacated immediately.

**3.** Plaintiffs moved an application at Exh.24 for seeking time to file say of present application. Time was granted thereon vide order for the reasons recorded therein. Today, the plaintiffs filed say at Exh.29 and written argument on the present application at Exh.30. It is pertinent to note that learned advocate for the plaintiffs is absent. In their say, the plaintiffs have contended that on 25/03/2026 plaintiffs filed an application for taken on board due to urgency. Along with plaintiffs filed an application on Exh.15 for claiming the relief of status quo against the defendants no.1 and 2 that they should not create new road as per the order of SDO. Kurduwadi passed in review application no.03/2025 dtd.29.08.2025. That the suit is filed for seeking injunction against the defendants that they should not disturb the peaceful possession of the plaintiffs in the suit property and they should not create new road as per the order of SDO, Kurduwadi passed in review application no.03/2025 dtd.29.08.2025. It is also prayed in the suit that it be declared that the orders regarding said alleged road are not binding on the plaintiffs. Suit is pending for hearing of the application for temporary injunction which is at Exh.5 Still the defendants are attempting the execute the order of SDO, Kurduwadi passed in review application no.03/2025 dtd.29.08.2025. They have also applied for seeking police aid. So that plaintiffs could not obstruct the execution. In absence of any kind of injunction order of the court in respect of order of the SDO, Kurduwadi passed in

review application no.03/2025 dtd.29.08.2025, said order will be executed on 30.03.2026. If that order is at all executed as scheduled on 30.03.2026, the plaintiffs are going to suffer irreparable loss. Hence, filed stay application.

4. He further submitted that the defendants filed their say at Exh.17 and contended therein that the application contains false and baseless allegations. The plaintiffs have moved this application by concealing the ground reality. Defendants are the owners and possessors of Gal no. 136. Gat no. 136, 140, 141. 139, 138. 137 were the agricultural properties originally by Fartade family. The defendants are using one road which passes through Gat no.137 and which is situated at North-South embankment of Gat no.139/1 which is 15 feet wide since last 70-80 years. The defendants are using this road as they don't have any other optional road. In road case no.जमा२/५/एस.आर.४५/२३ on 20.03.2024 the Tahsildar after examining all the relevant evidence and actual spot inspection, issued an order to remove the obstructions on the alleged road. Plaintiffs moved appeal against said order before SDO. Kurduwadi. It was dismissed on 29.08.2025. Plaintiffs have themselves obstructed the road by pouring soil on the alleged road. Which means that they themselves have done an illegal act. Therefore, they are not entitled to the relief they are claiming. There is no optional road as suggested by the plaintiffs which passes through Gat no. 120. In fact there exists one water body. Therefore, that claim is false. If this application is allowed, the defendants would be unable to visit their own agricultural land Gat no. 136. They could not harvest the crop which is standing in their field and the sole source of income of the family of the defencants would disappear. Therefore, the defendants would suffer irreparable loss. Balance of convenience is in favour of defendants. Ultimately

they prayed for rejection of this application with costs. They have also prayed that they should not be obstructed from using the road which was made obstruction free due to order of revenue authority.

5. That Hon'ble court heard both sides. Perused the record and passed order with finding that in pendency of suit if due to absence of any order of this court, the order of SDO, Kurduwadi passed in review application no.03/2025 dtd.29.08.2025 will be executed then the suit itself would become infructuous as the subject matter of the suit itself would not exist. It certainly is going to give rise to multiplicity of proceedings. The grievance of the plaintiffs would abruptly fail without giving an opportunity to prove their claim. To avoid this disaster subject matter of the suit should be protected. With is finding passed interim order that both parties are directed to maintain status quo, till final decision of the application at Exh.5. The said order is proper and legal in eyes of law and binding upon both.

6. Immediately on 10.04.2026 without having any legal and proper reason defendant filed present application for matter taken on board, through pleading urgency to vacate stay order by containing with false and defamatory allegation on plaintiff and his Advocate i.e R.S. Halnor, that they deliberately avoided arguments on Exh.5 on multiple dates. Plaintiff's advocate appeared when the matter was not on board and moved application, filing a fresh injunction application while Exh.5 is pending is not permissible. Plaintiff obtained Status Quo order by misleading the Court instead of arguing Exh.5. Mandatory procedure of Order 39 Rule 3 CPC are not followed, exparte order not followed, Exparte / behind back order Status Quo order passed without proper notice to defendant. Plaintiff allegedly used the order to create pressure and disturbance. Due to vague status quo order tension and dispute arose. Defendant suffered heavy loss

due to the order. Plaintiff took long date 07.05.2026 to misuse the order with this allegation sought relief to take matter urgently on board hear Exh.5. Immediately vacate / cancel Status Quo order etc.

7. That the application itself not tenable in eyes of law. Contents are totally false, misleading and based on incorrect and distorted facts. It is filed only with an intention to mislead this Hon'ble Court. The Present Application is filed with malafide intention only to Vacate lawful order. Create pressure. Avoid adjudication of Exh.5 Hence, it deserves rejection with costs.

8. That the filing of Exh.15 is legally permissible to the plaintiff. It was filed due to subsequent and emergent circumstances. The law permits granting interim relief at any stage under Order XXXIX Rule 1 & 2 CPC. Hence, filing of Exh.15 during pendency of Exh.5 is perfectly legal. That there is no suppression or misleading of Court through plaintiff. All material facts including police action and proposed execution date 30.03.2026 were clearly placed before the Court. That the Hon'ble court while considering said application called on say of defendant and say was filed on Exh.17. This Hon'ble Court has heard both parties after considering pleadings and record, the Court passed a legal and proper order on 25.03.2026 that both parties should maintain status quo till final Order on Exh.5. That the Hon'ble Court through passing said order protected subject matter rightly. The Hon'ble Court has specifically observed that if SDO order is executed suit will become infructuous. It will lead to multiplicity of proceedings. Plaintiffs will suffer irreparable loss. Hence, Hon'ble Court rightly granted status quo to protect subject matter. That there is no violation of Order 39 Rule 3 CPC. Since defendants were heard, provisions of Order 39 Rule 3 are complied with allegation of non-compliance is baseless.

9. That the plaintiffs have not misused the order in any manner allegations regarding police misuse, assault, etc. are false and unsupported. That the defendants are themselves attempting illegal execution. Defendants are trying to execute revenue order through police force without civil court adjudication. This itself justifies the urgency and necessity of interim protection. That the balance of convenience is in favour of plaintiffs. If road is created irreversible change will occurred. Plaintiffs will suffer irreparable injury, whereas defendants suffer no such loss by maintaining status quo.

10. Today, I asked the learned advocate of the defendants to argue on this application. He submitted that “today I have arrived here for obtaining order on Exh.5.” Hence, considering the application itself as his argument, I am proceeding further. I have read and considered the written argument on behalf of the plaintiff, which is at Exh.30. First of all, I would like to point it out that today the matter is inter alia kept for argument on Exh.5. The learned advocate for the defendants filed written argument on application below Exh.5, which is at Exh.28 on last date itself. Today, neither the plaintiffs nor their learned advocate is present before the court. The plaintiffs have not submitted written argument on Exh.5 either. Son of the plaintiff no.1 and son of the plaintiff no.2 are present before the court. But, both of them are not litigants in this matter.

11. Under the provisions of Order XXXIX, Rule 4 of the CPC, any order of injunction may be vacated on application made by a dissatisfied party. An order of status quo is nothing but a form of temporary injunction. Certain circumstances are enumerated wherein an order of status quo can be modified or vacated. For example, suppression or concealment of material facts, false or misleading statement in the plaint or affidavit, change in circumstances, plaintiff

fails to comply with court directions, no prima facie case, balance of convenience not in favour of plaintiff, no irreparable injury to the plaintiff, undue delay or abuse of process, violation of order XXXIX, Rule 3 of CPC, long continuation of ex parte status quo without hearing defendant, etc.

**12.** So far as the present litigation is concerned, it is pertinent to note that present learned advocate for the defendants namely Adv.S.J. Kshirsagar was taken on record as an advocate on behalf of the defendants on last date i.e. 27.04.2026. Before him, the defendants appointed learned Adv.B.R. Raut on their behalf in this matter. Adv.B.R. Raut filed say on behalf of the defendants at Exh.15 i.e. the application for status quo. Through the present application, the defendants are alleging that learned Adv. Shri. B.R. Raut filed say on Exh.15 behind their back and without their signature. It seems that the defendants have suspicion about acts of their learned Adv. Shri.B.R. Raut. As per the settled principles of law, an advocate appointed in civil litigation, can file say on behalf of the defendants in their absence and without their signature. Learned Adv. Shri. B.R. Raut had already informed this court that before filing say on application at Exh.15, they have called the defendant through phone and only after his approval, he has filed say as per his instructions. Adv.Shri. B.R. Raut is also ready to submit this on affidavit. This certainly has raised suspicion on integrity of the defendants themselves. Again, there are chances that the defendants can level vague allegations against their present learned advocate too. As the defendants were fairly and sufficiently represented by learned Adv.Shri. B.R. Raut on 25.03.2026 who was present before the court and filed say on Exh.15 and argued on behalf of the defendants, there was no necessity to comply the provision of Order XXXIX, Rule 3 of the CPC separately in my opinion.

13. There are mere allegations on behalf of the defendants about the damage suffered due to status quo order and stress caused between plaintiffs and defendants and so called law and order situation. No prima facie proof to support these allegations is filed on record. Hence, court is unable to draw any inference about these allegations. However, both parties were directed to argue on Exh.5 today. Rojnama also reflects the same. Plaintiffs failed to comply with this direction of the court. It falls within the list of enumerated grounds to vacate status quo.

14. A status quo order is generally considered as stringent and serious interim order because it restrains the parties from altering the existing state of affairs regarding possession, title, nature of property, construction, alienation or other disputed rights. Therefore, if the status quo is granted in favour of any party, that party is bound to follow the directions of the court. It is not the blanket reward to the party to enjoy it as per its wishes and whims. Today, no application is moved by the plaintiffs in respect of absence of their learned advocate before the court and his whatever inability to argue on Exh.5. This action is required to be treated seriously when court has granted status quo in favour of the plaintiffs. Therefore, I am of the opinion that this is quite sound scenario to vacate the order of status quo in the light of the provisions of Order XXXIX, Rule 4 of the CPC. Accordingly, I proceed to pass the following order -

**ORDER**

1. Application is partly allowed.
2. Order of status quo below Exh.15 is hereby vacated.

Date: 07/05/2026  
Place: Karmala

(Smt.S.P. Kulkarni)  
2<sup>nd</sup>Jt. Civil Judge J.D., Karmala.