

MHST050003192026

**REGULAR CIVIL SUIT NO.166/2026**Dipak Sampat Lokhande Th. Arjun
Sampat Lokhande.

Vs.

Deputy Engineer, P.W.D. Karad.

ORDER BELOW EXH. 5

1. The plaintiffs have filed this application seeking temporary injunction against defendant temporarily restraining the defendant from taking any action in pursuance of notice dated 27/05/2026 and disturbing their peaceful possession over Grampanchayat property no.332 having R.C.C. building, shop, block in land in Gat No.60 described in para 1 of the plaint, situated at village Yevati, Tal.Karad, Dist. Satara (in short the 'suit property') till final disposal of the suit.

The case of the plaintiffs, in short is as under:-

2. That the plaintiffs are possessing the suit property since long and earlier there was old house in the suit property. However, in the year 2025, by demolishing the old house, the plaintiffs have constructed new house and shop which is having Grampanchayat property no.332. According to plaintiffs, since 1980, they are residing in the suit property. Towards three corners of the house situated in the suit property, there is road. However, the State had not acquired any part of the suit property and in the same space where the old house of the plaintiffs existed, the plaintiffs have constructed their new house and shop and accordingly the entry to that effect has been taken in the Grampanchayat record.

3. It is contended that, some persons had made false complaint against plaintiffs under the grudge that the plaintiffs had not given their votes to the Sarpanch of village Yevati. Accordingly, on 25/05/2026, a meeting took place at new rest house at Karad and on the basis of said meeting, the officers of defendant issued illegal notice dated 27/05/2026 to the plaintiffs directing them to remove their house and shop within three days. According to plaintiffs, the defendant had issued alleged illegal notice dated 27/05/2026 under the pressure of Sarpanch of village Yevati and is trying to demolish the house and shop of the plaintiffs in the suit property. Prior to 27/05/2026, plaintiffs had not received any such notice and none of the villagers of village Yevati have filed any complaint alleging that, the house and shop of the plaintiffs situated in the suit property is causing inconvenience for using the road. But, the defendant had issued the alleged notice dated 27/05/2026 without making any inquiry and without inspecting the suit property.

4. Lastly, it is contended that, since 1980, plaintiffs are residing in the suit property. Therefore, they have prima-facie case and balance of convenience in their favour. On the contrary, if the defendant succeeds in taking action on the basis of alleged notice dated 27/05/2026, plaintiffs will suffer irreparable loss which can not be compensated in terms of money. Hence, the application.

5. Defendant has appeared and filed say at Exh.20 and contested the present application. According to defendant, while undertaking the new construction of their house, plaintiffs have not

obtained prior permission or no objection certificate from the office of the defendant. According to defendant the main District Highway - 55 passes from village Manewadi, Galmewadi, Kumbhargav, Yevati and Ond and said highway is having 10 meters width which existed from year 1980. It is further stated that, as per the Ribon Development, the building line is expected to have distance of 20 meters from the center of the highway road and to have distance of 4.5 meters from the corner of the said highway road.

6. According to defendant, by virtue of provisions of section 21 and 23 of The Maharashtra Highways Act, 1955 the illegal construction and encroachment over the highway is prohibited. Therefore, as the construction raised by the plaintiffs is causing inconvenience to the vehicles passing from the said highway, defendant has initiated the action by issuing notice dated 27/05/2026 to the plaintiffs. Lastly, the defendant has stated that, the application filed by the plaintiffs and the prayer made therein is not in accordance with law and plaintiffs are not entitled for relief of temporary injunction as sought. Hence, it is prayed to reject the application.

7. In view of the rival pleadings and *prima facie* documentary evidence on record, following points are arise for consideration. The points and its findings along with reasons are as follows:-

SR. NO.	POINTS	FINDINGS
1)	Whether plaintiffs prove prima-facie case ?	...In the negative

SR. NO.	POINTS	FINDINGS
2)	Whether balance of convenience lies in favour of the plaintiffs ?	...In the negative
3)	Whether plaintiffs will suffer irreparable loss in case the temporary injunction is refused ?	...In the negative
4)	What order ?	As per final order.

REASONS

8. I have heard learned advocates for the parties at considerable length.

AS TO POINT NOS. 1 to 3 :-

9. Plaintiffs have specifically come up with case that since 1980, they are residing in the suit property and in the year 2025, by demolishing their old house, they have constructed new house and one shop in the suit property. To substantiate their contentions, Ld. advocate for plaintiffs Shri. Divate has relied upon copy of 7/12 extract of land Gat no.60, copy of extract of form no.8 for the year 2023-24 to 2026-27 filed along with list Exh.3/2 and 3/3 respectively. He has argued that, the names of plaintiffs are duly entered in the extract of form no.8 having Grampanchayat property no.332 situated at village Yevati, Tal.Karad. He has also argued that, in spite of the Grampanchayat record regarding particulars of construction raised by the plaintiffs, the defendant has issued the alleged notice dated 27/05/2026 directing the plaintiffs to remove the alleged encroachment within 3 days. Thus the alleged notice is

issued under the political pressure and without inspecting the suit property. Therefore, the said notice is *prima-facie* illegal and not binding on the plaintiffs.

10. *Per-contra* Ld. advocate for defendant Shri. Kulkarni submitted that, the notice dated 27/05/2026 is issued on the basis of provisions of section 21 and 23 of Maharashtra Highways Act, 1955. According to him, as the officers of defendant found encroachment on the highway at the hands of plaintiffs, the notice dated 27/05/2026 is issued to them with the directions to remove the alleged encroachment. However, instead of complying the notice dated 27/05/2026 the plaintiffs have filed the present suit and the application. Lastly, he has argued that, as the plaintiffs have failed to prove *prima-facie* case, they are not entitled for temporary injunction as prayed for.

11. After going through the pleadings and *prima-facie* documents filed on record, it is not in dispute that, towards the northern side of the house and shop of the plaintiffs, the District Highway is situated and it passes further. It is the contention of the plaintiffs that, by demolishing their old house in the year 2025, they have constructed new house and shop in the suit property. However, at this stage except the form no.8 of Grampanchayat property no.332, the plaintiffs have not filed any map or sanctioned plan to substantiate the same. So also, plaintiffs have not filed any photographs of the suit property and the road constructed by the defendant in order to show the exact location of their house and

shop in the suit property and the said road.

12. On the other hand, *prima-facie* perusal of the notice dated 27/05/2026 filed along with list Exh.3/1 shows that, it is shown to be issued to plaintiff no.1 stating that, the plaintiffs have constructed shop/shed/and other construction in the boundary of the District Highway constructed by the defendant by encroaching upon the same. In that context, it is not at all disputed by the plaintiffs that, they have constructed house and shop in the suit property. Therefore, as *prima-facie* the notice dated 27/05/2026 contains the particulars of construction such as shop/shed, it can not be said that, said notice is issued without inspecting the suit property.

13. Moreover, as per the provision of section 21 of The Highways Act, 1955 it is prohibited to encroach on any highway within the highway boundaries. So also, section 23 of the said Act provides for issuance of notice on the person responsible for the encroachment requiring him to remove such encroachment within period specified in the notice. Likewise, section 24 of the said Act provides that, any person aggrieved of the notice issued to him under section 23(1) of the said Act, he has remedy to file an appeal before the Collector under the intimation to the Highway authority and it is for the Collector to record his decision in writing, after due inquiry and to communicate the same to the appellant and the Highway Authority. Thus, the Maharashtra Highways Act, 1955 has provided equally efficacious remedy to the plaintiffs to file appeal against the alleged notice dated 27/05/2026 before competent authority.

However, instead of availing the said remedy, plaintiffs have filed the present suit and the present application.

14. Needless to say that injunction is an equitable relief and for obtaining the same plaintiffs have to come before the Court with clean hands and without suppressing material facts. Moreover, it is the contention of the plaintiffs that, the said notice is issued under political pressure of Sarpanch of village Yevati. However, except the bare statements in the present application, plaintiffs have filed absolutely no *prima-facie* evidence to show the same. Therefore, this argument advanced on behalf of plaintiffs also does not hold the water. Hence, considering the foregoing discussion, I am of the view that, as the plaintiffs have failed to establish their case regarding the construction of their house and shop situated in the suit property within the specified boundaries and as the plaintiffs failed to avail equally efficacious remedy available to them, they have no *prima-facie* case in their favour. I therefore, find no substance in the arguments advanced on the behalf of plaintiffs that, the notice dated 27/05/2026 is issued illegally and without inspecting the factual position.

15. Hence, on the foregoing discussion, I am of the view that, at this stage plaintiffs have failed to establish *prima facie* case and balance of convenience in their favour. In absence of both the above criteria, the question of irreparable loss of the plaintiffs will not arise. Hence, considering all these aspects, I record my findings to point Nos. 1 to 3 in the negative.

AS TO POINT NO. 4:-

16. I have recorded my findings to point nos. 1 to 3 in the negative. Therefore, I hold that the present application must fail and deserves to be rejected. Hence, in the result, in answer to point no. 4, I pass the following order:-

ORDER

- 1] The application is rejected.
- 2] Costs in cause.

(A. N. Kulkarni)

2nd Jt. Civil Judge, Senior Division,
Karad.

Place : Karad.

Date : 17/07/2026.