



ORDER BELOW EXH. 30 IN R.C.S. NO. 160/2025

The present application is filed by Defendant Nos. 4 and 5, who are counter-claim plaintiffs, under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure seeking temporary injunction against original plaintiffs i.e. Defendant Nos. 1 and 2 in the counter-claim. The applicants have prayed that the non-applicants be restrained from disturbing their alleged possession over the suit property, from causing damage to crops and trees, and from obstructing them from taking water from the well situated in the suit land.

02. It is the contention of the applicants that the suit property was taken in possession on the basis of an agreement dated 08/05/1975 allegedly executed by Jagannath Katkar in their favour for consideration of Rs.500/-. According to them, since that date they along with Defendant Nos. 3 to 5 are in continuous possession of the property and are cultivating the same by taking various crops. It is further contended that they are using water from the well situated in the property and have obtained electricity connection for the said purpose. It is alleged that on 25/01/2026 the non-applicants came to the suit property, attempted to cut branches of trees and caused damage to crops and tried to dispossess them, hence the present application.

03. Per contra, the non-applicants have strongly opposed the application contending that the applicants have neither title nor possession over the suit property. It is contended that the alleged agreement dated 08/05/1975 is unregistered and not admissible in

evidence and that Jagannath Katkar had no right or authority to execute such agreement. It is further contended that the property has fallen to their share in partition and their names are duly recorded in the revenue record since long. According to them, the well, electric connection and cultivation are carried out by them as owners. It is also contended that the suit suffers from non-joinder of necessary parties and that the applicants have suppressed material facts.

04. I have heard both sides and perused the record.

05. The applicants have relied upon the agreement dated 08/05/1975. The said document appears to be an unregistered document executed on stamp paper. At this interlocutory stage, though the admissibility and legality of the said document can be finally decided only at trial, prima-facie it does not confer title in favour of the applicants. In this context, the principle laid down in **Manikrao Yeshwantrao Patekar v. Gangubai Ramrao Patekar 2019(6) MhLJ 210** indicates that transfer of immovable property requires a registered instrument and an unregistered document cannot create or extinguish rights in such property.

06. However, it is equally settled that while deciding an application for temporary injunction, the Court is mainly required to consider the aspect of possession. In this regard, reliance placed on **Baban Anantrao Naik v. Pramila Uttamrao Yenare 2011(6) ALL MR 15** shows that detailed inquiry into title is not warranted at this stage and the Court has to see whether prima-facie possession is established.

07. In the present case, the revenue record placed on record shows the names of non-applicants. The electricity connection is also

not in the name of the applicants. The photographs produced do not conclusively establish possession of the applicants over the suit property. Except the unregistered agreement, there is no cogent documentary material to show continuous and lawful possession of the applicants since 1975. On the contrary, the record indicates possession of the non-applicants. Thus, the applicants have failed to establish a prima-facie case of possession. Consequently, the balance of convenience does not lie in their favour. If injunction is granted, it would restrain the recorded holders of the property from using the same. Further, the applicants have not demonstrated that they would suffer irreparable loss which cannot be compensated in terms of money. In view of the above discussion, this Court is of the opinion that the applicants are not entitled to the relief of temporary injunction. Hence, I pass following order:-

:- ORDER :-

The application filed by Defendant Nos. 4 and 5 (counter-claim plaintiffs) under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 stands rejected.

Date:- 23.04.2026

Place:- Dahiwadi.

(S. S. Gadve)

I/C., Jt. Civil Judge Junior Division,
Dahiwadi.

:- Affirmation certificate :-

I affirm that the contents of this P.D.F. file order are same, word to word as per original order.

Name of the Stenographer	:- A. N. Ombase, Steno Grade-3,
Name of the Court	:- Civil Judge (J.D.) & J.M.F.C., Dahiwadi, Tal. Man, Dist. Satara.
Date of judgment/order	:- 23.04.2026
Judgment/order signed by the Presiding Officer on	:- 23.04.2026
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