

MHST070018332025



**Order Below Exh. 5 in R.C.S. 256/2025
(Balu Alias Govind Devaba Chavan Vs. Tanaji Shripati Chavan)**

1. This is a suit for permanent injunction. This suit is relating to land Gat No. 1191 to the extent of 0.48R situated at Nigadi, Tal-Karad Dist. Satara which is more specifically mentioned in the paragraph of No. 1 of the plaint. (said property hereinafter to be referred as the “the suit property”). Plaintiffs have filed this application under Order 39 and Rule 1 and 2 restraining defendants from obstructing plaintiffs possession over the suit property till the final decision of the suit.

2. Plaintiffs pleads that, the suit property is ancestral property of plaintiffs. Plaintiffs father Devba Chavan was owner of the suit property. He was having two wives. After death of Devba, names of plaintiffs and other being his legal representatives are recorded as owners and possessor of the suit property by way of mutation entry No. 7394. Plaintiffs are owners of the suit property and having possession over the suit property.

3. Plaintiffs further pleads that, in the year 2024 due to heavy rain, plaintiffs could not cultivate the suit property. When plaintiffs

went to cultivate to suit property on 10/04/2025, defendants obstructed and threatened to plaintiffs. Therefore, plaintiffs filed complaint to the police station Masur. However, police have not taken any action against defendants.

4. Plaintiffs further pleads that, plaintiffs are owners and having possession over the suit property. Defendants are not having any concerned with the suit property. Defendants land is adjacent to the suit property. Defendants are obstructing plaintiff possession over the suit property. Therefore, plaintiffs filed this suit for permanent injunction restraining defendants from obstructing plaintiffs possession over the suit property.

5. Plaintiffs further pleads that, plaintiffs are having prima-facie case, balance of convenience also lies in favour of plaintiffs. If, during pendency of the suit, defendants obstructed plaintiffs possession over the suit property then, plaintiffs will suffer irreparable loss. Therefore, plaintiffs prayed this interim relief.

6. The defendant Nos.1 to 6 contested the suit and application by filing written statement (Exh. 18) and denied all the adverse allegations against him. The defendant Nos.1 to 6 contended that, description and boundaries of the suit property are incorrect. Therefore, this suit and application is not maintainable.

7. The defendant Nos.1 to 6 further contended that, defendants are owners of the land Gat No. 1181 and having possession over said land since long time. Land Gat No. 1184 is adjacent to Gat No. 1181 and plaintiffs land Gat No. 1191 is not adjacent to defendants land Gat No. 1181. In the map maintained by the office of the Deputy Superintendent of Land Record, Karad also it is seen that, Gat No. 1184 is adjacent to the Gat No. 1181. Therefore, no question arises for obstruction to plaintiffs possession.

8. The defendant Nos.1 to 6 further contended that, land Gat Nos. 1192, 1187 and 1190 are adjacent to plaintiffs land Gat No. 1191. The map dated 25/10/2024 filed by the plaintiff and plot report rural of village Nigadi Tal-Karad Dist. Satara is contrary to each other. Plaintiffs are not having possession over the property as per map filed along with the plaint. Defendants are having possession over the Gat No. 1181 as per the map prepared during the Fragmentation and Consolidation Scheme.

9. The defendant Nos.1 to 6 further contended that, by way of temporary injunction plaintiffs are intending to disposes from their own land Gat No. 1181. Plaintiffs alleged encroachment at the hands of defendants. However, map of alleged encroachment is not filed. Therefore, the suit and application is not maintainable.

10. The defendant Nos.1 to 6 further contended that, boundaries of plaintiffs land Gat No. 1191 are not fixed. Therefore, unless said boundaries are fixed, the suit and application is not maintainable. Actual possession over the land and maps of said land are different. Therefore, this suit and application is not maintainable.

11. The defendant Nos.1 to 6 further contended that, plaintiffs have suppressed material facts about possession over the suit property and have not approached before the Court with clean hands. All owners of land Gat No. 1181 are not added as party to the present suit. Hence, this application is affected by principle non joinder of necessary parties. Therefore, plaintiffs are not entitled for any relief.

12. The defendant Nos.1 to 6 further contended that, plaintiffs are not having prima-facie case. Balance of convenience also dose not lie in favour of plaintiffs. By way of interim injunction order plaintiffs intends to dispossess defendants from their own land Gat No. 1181. Therefore, if injunction is granted in favour of plaintiffs then defendants will suffer irreparable loss. Contending all these defendants prayed to reject the application with heavy costs.

13. Following points arises for my determination and I have recorded my findings to each of them for the reason stated below:

Sr. No.	Points	Findings
1.	Whether plaintiffs prove that they have	In the affirmative.

	prima-facie case ?	
2.	Whether the balance of convenience lies in favour of plaintiffs ?	In the affirmative.
3.	Whether irreparable loss will cause to plaintiffs if the injunction application is refused ?	In the affirmative.
4.	What order?	As per final order.

14. In order to substantiate prayer of interim relief, the plaintiff filed on record some documents and photographs which would be discussed at relevant time.

15. Heard both sides. Shri. J. G. Kalse, learned counsel for plaintiffs submits that, plaintiffs are owners and having possession over the suit property. Name of plaintiffs is also recorded in the 7/12 extract. Map maintained by the office of The Deputy Superintendent of Land Record also shows location of plaintiffs possession. Defendants are obstructing plaintiffs possession over the suit property. He there, prayed to allow the application.

16. Per contra, Shri. A. N. Jadhav learned counsel for defendant Nos. 1 to 6 submits that, plaintiffs have given incorrect boundaries of Gat No. 1191 and trying to dispossess defendants from their own land by misleading this Court. Defendants are owners of Gat No. 1181. Defendants property is not adjacent to the suit property. Therefore, no

question arises for obstructing plaintiffs over the suit property. Plaintiffs have suppressed material facts about possession over the suit property and have not approached before the Court with clean hands. All owners of land Gat No. 1181 are not added as party to the present suit. Hence, this application is affected by principle non joinder of necessary parties. He therefore prayed to reject the application.

17. Perused the record.

REASONING

As to Point Nos. 1 to 3 :

18. All these points are interlinked to each other. Hence, in order to avoid repetition, I am deciding these points commonly.

19. It is the case of plaintiffs that, they are owners of the suit property and having possession over the suit property. In order to prima-facie prove said facts plaintiffs have filed on record copies of 7/12 extract of the suit property. On careful perusal of said 7/12 extract it appears that, names of plaintiffs along with other is recorded as owners and possessors of land Gat No. 1191.

20. 7/12 extract from the year 1993-94 to 2003-2004 shows that, the suit property was recorded in favour of Chandru Devba Chavan. 7/12 extract of the suit property from the year 2012-2013 also shows that names of plaintiffs are recorded as owners and possessor of the suit property. 8A extract also shows that plaintiffs are owners of the

suit property along with other properties. Therefore, considering the 7/12 extracts, mutation entries and 8A extract prima-facie it appears that, plaintiffs are owners of the suit property.

21. Learned counsel for the defendant Nos.1 to 6 submits that, other persons are also owners of the suit property who are not added as a party to the present suit. Hence, the suit and application is not maintainable. Perusal of 7/12 extract of the suit property prima-facie shows that, plaintiffs along with other persons are joint owners of the suit property. Therefore, as names of plaintiffs are recorded as owners of the suit property, submission advanced on behalf of defendants are not considered.

22. Learned counsel for the defendant Nos.1 to 6 submits that, description and boundaries of the suit property are incorrect. Defendants are owners of the land Gat No. 1181 and having possession over said land since long time. Land Gat No. 1184 is adjacent to Gat No. 1181 and plaintiffs land Gat No. 1191 is not adjacent to defendants land Gat No. 1181. In the map maintained by the office of the Deputy Superintendent of Land Record, Karad also it is seen that, Gat No. 1184 is adjacent to the Gat No. 1181. Land Gat Nos. 1192, 1187 and 1190 are adjacent to plaintiffs land Gat No. 1191. The map dated 25/10/2024 filed by plaintiffs and plot report rural of village Nigadi Tal-Karad Dist. Satara is contrary to each other. Plaintiffs are not having possession over

the property as per map filed along with the plaint. Defendants are having possession over the Gat No. 1181 as per the map prepared during the Fragmentation and Consolidation Scheme. Hence, plaintiffs are not entitled for any relief.

23. Perusal of record shows that, plaintiffs and the defendant Nos. 1 to 6 have filed on record copy of the map issued by Office of the Deputy Superintendent of Land Records, Karad. On careful perusal of map filed by the defendant Nos. 1 to 6 it appears that, the suit property is not adjacent to the defendants land Gat No. 1181. However, said map is prepared at the time of Fragmentation and Consolidation Scheme. On the contrary, plaintiffs have filed on record map of the suit property along with adjacent Gat numbers including land Gat No. 1181 owned by defendants. On careful perusal of said map it appears that, defendants land Gat No. 1181 is adjacent to the suit property.

24. Though there is a difference in map filed by plaintiffs and the defendant Nos. 1 to 6, the map filed by the defendant Nos. 1 to 6 is prepared during the Fragmentation and Consolidation Scheme and the map filed by plaintiffs is appears to be prepared after said scheme. Therefore, it is necessary to consider the latest map which is brought on record by plaintiffs. Hence, submission advanced on behalf of the defendant Nos. 1 to 6 about the map, location and boundaries of the suit property are not considered.

25. Learned counsel for the defendant Nos.1 to 6 submits that, plaintiffs alleged encroachment at the hands of defendants. However, map of alleged encroachment is not filed. Therefore, the suit and application is not maintainable. However, record shows that it is the pleading of plaintiffs that, defendants are trying encroach and obstruct over the suit property. Therefore, plaintiffs have filed this suit for permanent injunction. Plaintiffs are not claiming recovery of possession. Hence, in my considered opinion map of alleged encroachment is not necessary in the present case. Therefore, there is no force in the submission advanced on behalf of the defendant Nos. 1 to 6.

26. Learned counsel for the defendant Nos.1 to 6 submits that, boundaries of plaintiffs land Gat No. 1191 are not fixed. Actual possession over the land and maps of said land are different. Therefore, unless said boundaries are fixed, the suit and application is not maintainable. However, map filed along with the plaint by the plaintiff shows the boundaries and location of the suit property. Therefore, there is no force in the submission advanced on behalf of the defendant Nos. 1 to 6.

27. Learned counsel for the defendant Nos.1 to 6 submits that, plaintiffs have suppressed material facts about possession over the suit property and have not approached before the Court with clean hands. All owners of land Gat No. 1181 are not added as party to the present

suit. Hence, this application is affected by principle non-joinder of necessary parties. Therefore, plaintiffs are not entitled for any relief.

28. However, it is the pleading of plaintiffs that defendants are obstructing their possession over the suit property. Hence, this suit is filed. As cause of action arises only against the present defendants. Therefore, in my considered opinion prima-facie the suit is not affected by non-joinder of necessary parties. Therefore, there is no force in the submission advanced on behalf of the defendant Nos. 1 to 6.

29. Therefore, on considering entire material prima-facie brought on record by plaintiffs and the defendant Nos. 1 to 6, prima-facie it is proved that, plaintiffs are owners of the suit property and defendants are owners of land Gat No. 1181 and other properties. 7/12 extract and other revenue entries in respect of the suit property shows possession of plaintiffs and their ancestors over the suit property. The map filed by plaintiffs and the defendant Nos. 1 to 6 are contrary to each other showing the location of the suit property. The map filed by defendant Nos. 1 to 2 is prepared during the Fragmentation and Consolidation Scheme and map filed by plaintiffs appears to be prepared thereafter. Hence, it is necessary to consider the case of plaintiffs as per map filed along with the plaint. Hence, prima-facie it is proved that, plaintiffs are owners and having possession over the suit property. Therefore, the plaintiff's case appears to be probable to hold

that plaintiffs have prima-facie case. Hence, balance of convenience lies in his favour.

30. It is the submission on behalf of the plaintiff that defendants are obstructing plaintiffs possession over the suit property. Plaintiffs have filed on record copy of the complaint given to the police station which also contents the allegations of obstruction by defendants. Learned counsel for the defendant Nos.1 to 6 submits that, by way of interim injunction order plaintiffs intends to dispossess defendants from their own land Gat No. 1181. However, plaintiffs are not claiming any relief in respect of defendants land Gat No. 1181. Plaintiffs are claiming limited relief in respect of land Gat No. 1191 which is owned by plaintiffs. Therefore, there is no force in the submission advanced on behalf of the defendant Nos. 1 to 6.

31. Prima-facie it is prove that, plaintiffs are owners of the suit property and having possession over the suit property. Therefore, if the defendant Nos. 1 to 6 obstructed plaintiff possession over the suit property during pendency of the suit then plaintiffs will suffer irreparable loss as compared to defendant Nos. 1 to 6. Hence, I record my affirmative findings to point Nos.1 to 3.

AS TO POINT NO. 4 :

32. In view of my findings to point Nos. 1 to 3, plaintiffs proved that, they have prima-facie case, balance of convenience lies favour of

plaintiffs and if injunction is not granted, then it will cause irreparable loss to them. Hence, plaintiffs are entitled for equitable relief of injunction. In the result, in answer to point no 4, I pass following order,

ORDER

1	The application at Exh. 5 is allowed.
2	Defendants are hereby restrained by order of temporary injunction from obstructing plaintiffs possession over the suit property i.e land Gat No. 1191 to the extent of 0.48R situated at Nigadi, Tal-Karad Dist. Satara which is more specifically mentioned in the paragraph of No. 1 of the plaint, till final disposal of the suit.
3	Costs will be in cause.

Date : 11/06/2026

(Prashant P. Kulkarni)
3rd Jt. Civil Judge Junior Division,
Karad.