

ORDER BELOW EXH. 5 IN R.C.S. NO. 666/2025.
(CNR NO. MHST070062182025)

Mohammadali Babamiya Sutar ---- Plaintiff.

Vs.

Yunus Khajamiya Sutar & Ors. ---- Defendants.

The present suit has been filed by the plaintiff seeking the relief of perpetual injunction against the defendants. The present application has been filed under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 (hereinafter referred to as "the C.P.C."), seeking a temporary injunction against the defendants. The defendants were duly served with the notice of the application. However, they failed to appear before the Court. Consequently, the matter proceeded ex parte against them.

2. The application and the record have been perused. Heard the learned Advocate, Shri A.T. Sutar, appearing for the plaintiff.

Plaintiff's Case in Brief :-

3. The plaintiff has alleged that Suit Property No. 1B is an open plot of land originally owned by the predecessor of the defendants, namely, Khajamiya Mohammad Yusuf. In the year 1989, the said open land was leased to the plaintiff on an annual rent of Rs.2,400/-. Pursuant to the lease, the plaintiff constructed a shed on the suit property and started a small business therein. It is further alleged that the plaintiff has been regularly paying the agreed rent to the defendants from time to time.

4. The plaintiff has further contended that Regular Civil Suit

No. 54 of 2012 was instituted before the Court of the Civil Judge, Senior Division, Karad, between the legal heirs of Khajamiya Kazi in respect of Suit Property Nos. 1A, 1B and certain other properties. In the said suit, the present plaintiff was arrayed as Defendant No. 7. The suit came to be decreed on 04/10/2012, against which Regular Civil Appeal No. 4 of 2013 is pending adjudication.

5. According to the plaintiff, he has been in peaceful and continuous possession of Suit Property No. 1B since the year 1989. On 05/09/2025, due to a technical fault in the electricity connection and a short circuit, a portion of the shed was damaged. Consequently, the plaintiff lodged a complaint with the concerned Police Station regarding the said incident.

6. The plaintiff has further alleged that it has become necessary to carry out repair work to the damaged shed and to erect a compound around the suit property. The plaintiff informed the defendants that he intended to undertake the said repairs at his own cost. However, the defendants allegedly obstructed the proposed repair and compound work. It is further alleged that the defendants have been causing obstruction since September, 2025. Hence, the present suit has been filed seeking the relief of perpetual injunction. By way of the present application, the plaintiff has sought a temporary injunction restraining the defendants from causing any obstruction to the repair work, construction of the compound, and from dispossessing or otherwise interfering with the plaintiff's peaceful possession of the suit property.

7. Defendant No. 1 appeared before the Court. However, he

failed to file his written statement within the prescribed period. Accordingly, the matter has proceeded without the written statement of Defendant No. 1. Defendant Nos. 2 to 4 were duly served with the suit summons. However, they failed to appear before the Court. Consequently, the matter has proceeded ex parte against them.

8. Having considered the submissions advanced on behalf of the plaintiff and upon perusal of the material available on record, the following points arise for determination, along with the findings and reasons thereon:

Sr.No.	Points		Findings
1.	Whether the plaintiff has prima facie case ?	..	In Negative
2.	Whether balance of convenience lies in favour of the plaintiff ?	..	In Negative
3.	Whether the plaintiff will suffer irreparable loss if injunction is not granted ?	..	In Negative
4.	What order ?	..	As per final order.

REASONS

As to Points No. 1 to 3 :-

9. These points are interlinked; therefore, they are taken up for common discussion.

10. When the plaintiff seeks the discretionary relief of an injunction, he must establish that he has a *prima facie* case, that the balance of convenience lies in his favour, and that he would suffer

irreparable loss or injury if the injunction is not granted. The foremost requirement is that the plaintiff must make out a *prima facie* case in support of the rights claimed by him. The evidence led by the plaintiff must be such that the Court is satisfied there exists a bonafide dispute, that there is a strong case for trial requiring investigation and adjudication on merits, and that, based on the facts before the Court, there is a probability of the plaintiff being entitled to the relief claimed. Thus, the existence of a *prima facie* right and its infringement is a condition precedent for the grant of a temporary injunction.

11. To support his claim, the plaintiff has relied upon the following documents:

1. Extract of City survey No. 601 at Exh. 3/1.
2. Assessment Extract of property at Exh. 3/2.
3. Copy of Judgment in R.C.S.No. 54/2012 at Exh. 3/3.
4. Copy of Decree in R.C.S.No. 54/2012 at Exh. 3/4.
5. Complaint report at Exh. 3/5

12. Upon perusal of the documentary evidence placed on record, it appears that the plaintiff's name is reflected as the person in possession of the suit property, whereas the name of the owner is shown as Mohammad Yusuf Kazi. However, Mohammad Yusuf Kazi is not a party to the present suit. The plaintiff has pleaded that the predecessor of the defendants, namely Khajamiya Mohammad Yusuf, had leased the suit property to him. However, the plaintiff has not produced any documentary evidence, such as a lease agreement or any other document, to establish the creation or existence of the alleged tenancy.

Likewise, no rent receipts or any other documentary evidence showing payment of rent to the owner or his legal heirs have been placed on record. Therefore, the mere entry of the plaintiff's name as a person in possession of the suit property is not, by itself, sufficient to determine the nature of his possession or to establish the existence of a lessor-lessee relationship between the plaintiff and the owner of the property.

13. If the plaintiff claims to be a lessee of the suit property, the burden lies upon him to establish such relationship by producing cogent documentary evidence. In the absence of any lease deed, rent receipts, correspondence, or other supporting material, the Court is unable to prima facie conclude that the plaintiff is in possession of the suit property as a lessee.

14. Furthermore, according to the pleadings, Khajamiya Mohammad Yusuf had leased the open land bearing Suit Property No. 1B to the plaintiff. However, the plaint is completely silent regarding the period or duration of the alleged lease. No particulars have been furnished as to whether the lease was oral or written, whether it was for a fixed term or from year to year, or the specific terms and conditions governing the tenancy. Such omissions assume significance while considering the plaintiff's entitlement to equitable relief by way of a temporary injunction.

15. Moreover, except for the bare allegations made in the application, the plaintiff has not produced any prima facie material to demonstrate that the defendants have prevented him from carrying out the repair work or have extended any threat of obstruction. No contemporaneous complaint, notice, correspondence, independent

witness, photograph, video recording, or any other documentary material has been placed on record to substantiate the allegation of obstruction. Mere apprehension or bald allegations, unsupported by any prima facie evidence, are insufficient to grant the equitable relief of temporary injunction.

16. So also, it is pertinent to note that the principal relief claimed in the suit is that of perpetual injunction. The interim relief sought by the plaintiff is substantially identical to the final relief claimed in the suit. Granting such an injunction at this interlocutory stage, in the absence of clear prima facie material establishing actual or threatened obstruction by the defendants, would virtually amount to granting the final relief before the parties have led evidence. Temporary injunction is intended to preserve the existing state of affairs pending adjudication and not to finally determine the rights of the parties. Therefore, in the absence of cogent prima facie material, such relief cannot be granted.

17. In view of the foregoing discussion, this Court is of the considered opinion that the plaintiff has failed to establish a prima facie case for the grant of temporary injunction. It is a well-settled principle of law that unless a prima facie case is made out, the Court is not required to examine the other two ingredients, namely, the balance of convenience and the likelihood of irreparable loss or injury. Since the plaintiff has failed to satisfy the first and foremost requirement for grant of temporary injunction, no equitable relief can be granted in his favour at this stage.

18. On this point, I rely upon the following judgment of the

Hon'ble Bombay High Court. In the case of ***Bhavana vs. Navneet***, dated 28/10/2014, the Hon'ble Bombay High Court held: *"Once it is found that there is no prima facie case established, further aspects such as the conduct of the appellants, balance of convenience, etc., are immaterial and need not be considered."*

19. Hence, in view of the above discussion, I am of the considered opinion that the plaintiff has prima facie failed to establish the necessary elements for the grant of a temporary injunction. Accordingly, I answer Points Nos. 1 to 3 in the **"Negative"**.

As to Point No. 4 :-

20. In view of the findings on Points No. 1 to 3 above, I proceed to pass the following order. Costs will follow the event.

ORDER

1]	The Application (Exh.5) is rejected.
2]	Costs in main cause.

Place :- Karad.
Date :- 18/07/2026.

(Smt. A.V. Mohite)
2nd Jt. Civil Judge (Jr. Div.), Karad.
Tal. Karad, Dist. Satara.