

MHST140020072025

**ORDER BELOW EXH. No. 5 IN R.C.S.No.266/2025****Laxman Nivrutti Bhandalkar & Ors.****V/s.****Ankush Bhagwan Madane & Ors.**

Plaintiffs have filed present application under Order 39 Rule 1 of Code of Civil Procedure for granting temporary injunction against defendants.

**The brief facts of plaintiff's case are as under: -**

2. The plaintiffs stated that, agricultural land area 1 H-77 R out of Gat No.343 situated at Village Wathar Nimbalkar, Tal. Phaltan is owned and possessed by them. (Here-in-after referred as "Suit Property")

3. According to plaintiffs, on 08.07.1982 Bhagwan Shankar Madane due to legal necessity sold 2.2 Anna share to the father of plaintiff no.1. On 17.01.1983 again he sold 4.10 Anna share to the father of plaintiff no.1. Defendant no.1 to 4 herein filed R.C.S. No.301/1990 for partition. Against the decision of R.C.S.No.301/1990 plaintiff has filed Second Appeal before Hon'ble Bombay High Court. In that appeal Hon'ble Bombay High Court dismissed the appeal, however liberty given to plaintiff to file suit for general partition within three months. Accordingly, plaintiffs have filed R.C.S.No.216/2019. That suit was decreed by Court and plaintiffs herein were allotted 2 Anna shares in the suit

property. However, during execution of Hukumnama of partition suit before Tahasildar Phaltan, the plaintiffs were not allotted any share. Therefore, plaintiffs filed present suit and application to restrain defendants from getting possession of the suit property.

4. Perused plaint and documents filed by plaintiffs. Heard, Ld. Advocate Shri.P.P.Jadhav for plaintiffs at length. The copy of Second Appeal No.438/2008 shows that, the Hon'ble Bombay High Court given liberty to present plaintiffs to file suit for general partition in respect of suit property. The copy of R.C.S.No. 216/2019 shows that, the Court decreed the suit and 2 Anna shares of Gat No.343 was allotted to plaintiffs. Therefore, record prima facie shows that, plaintiffs have share in the suit property. According to plaintiffs, during execution of decree of Old R.C.S. No.301/1990 the Tahasildar giving possession only to defendants herein. Actually, during execution proceeding the plaintiffs herein need to given share as per decree of R.C.S.No.216/2019. However, share was not given to the plaintiffs. According to plaintiffs, the Circle Officer fixed the date i.e. 15.09.2025 for giving possession to defendants. If Circle Officer given possession, then purpose of filing present suit come to an end. Therefore, I found substance in the application and constrained to grant ad-interim ex-parte injunction against the defendants. For the reasons recorded above, I proceed to pass the following order.

### **ORDER**

1. The defendant no. 1 to 4 or their agent, servant, officer or any other person on their behalf are hereby temporarily restrained from dispossessing the plaintiffs

from the suit property till next date or till further orders of this Court.

2. The plaintiffs made compliance of Order 39 Rule 3 of Code of Civil Procedure in respect of defendants.

Phaltan

Date: 16.09.2025.

(A. S. Satote )

2<sup>nd</sup> Jt. Civil Judge Jr. Dn., Phaltan