

MHST170001192026 	Received On : 04/02/2026 Registered On : 09/02/2026 Decided On : 09/03/2026 Duration: 00Yrs : 01Ms. :05Ds.
---	---

**IN THE COURT OF DISTRICT JUDGE – 1, VADUJ**  
**AT VADUJ, DIST.SATARA.**

( Presided over by – Vidyadhar B. Kakatkar )

**MISC.CIVIL APPEAL NO.7/2026**  
**Exhibit No.20**

**Shivaji Bhau Pawar,**

Age: 70 Years. Occ: Agriculture,

R/o- Chitali, Taluka Khatav,

District Satara.

... **Appellant**

**VERSUS**

**1. Dadasaheb Anna Pawar**

Age: 55 Years, Occ: Agriculture,

**2. Hanmant Anna Pawar**

Age: 45 Years. Occ: Agriculture,

**3. Shashikant Anna Pawar**

Age: 43 Years. Occ: Agriculture,

All R/o- Chitali, Taluka Khatav,

District Satara

... **Respondents**

**Appearance :**

Ld. Adv. for the Appellant

: Shri. J. M. Kazi

Ld. Adv. for the Respondents

: Shri. N. M. Godase

**JUDGMENT**

( Delivered on: 09/03/2026)

The original defendant preferred this miscellaneous appeal against the order passed by the learned Joint Civil Judge, Senior Division, Vaduj, below Exh. 41 in R. C. S. No. 77/2022 dated 19/01/2026. The parties are hereinafter referred to as per their status in the original suit.

2. The following landed properties mentioned in the plaint are the subject matter of this suit.

Sr. No.	Gat No.	Old Gat No.	New Gat No.	Area		Share
				H	R	
1	227/1	1395	1411	0	20	½
2	266/13	1655	1671	0	48	½
3	270/4 271/6	1661	1677	0	40	½
4	270/8	1644	1660	0	40	½
5	277/11	1640	1656	0	58	½
6	271/9	1649	1665	0	58	½
7	227/3	1305	1321	1	52	½

They are hereinafter referred to as the 'suit property' for convenience.

3. The plaintiffs contend that Thakubai Tukaram Pawar originally owned the suit properties. Tukaram Kesu and Bhau Kesu were real brothers, and Tukaram died before 1950. After his death, the suit properties were recorded in Thakubai's name. She instituted a suit in the Vita court bearing R.C.S. No. 134/1951. It was compromised in the year 1951, and ½ share was allotted to Thakubai

and Bhau each. Accordingly, a  $\frac{1}{2}$  share was given to Thakubai in 1953. Thakubai died in 1969. She left behind two daughters, namely Hausabai and Rangubai, and their names were recorded as legal heirs of Thakubai in the suit properties. Plaintiff No. 1 purchased a  $\frac{1}{2}$  share of Rangubai in the year 1985. In the meantime, Hausabai died, leaving behind Hanmant and Shakuntala as her legal heirs. They sold the  $\frac{1}{2}$  share to the plaintiff's mother in 1986. Thereafter, the plaintiffs have been enjoying the suit properties. The plaintiffs claim a  $\frac{1}{3}$  share each in the suit properties.

4. The plaintiffs further asserted that the old revenue record showed the name Bhau as the tenant. Bhau claimed a tenancy right in the suit property, and the matter is *sub-judice* before the Hon'ble Bombay High Court. He further stated that the Maharashtra Revenue Tribunal (MRT) allowed the defendant's appeal during the COVID-19 pandemic and in the absence of the plaintiffs. However, the suit property is in the plaintiffs' possession. Recently, the revenue authorities have entered the order of the MRT in the revenue record, and the defendant, by taking advantage of those entries, is trying to obstruct the plaintiffs while in possession of the suit property. The order of MRT is under challenge before the Hon'ble Bombay High Court.

5. The defendant herein instituted a civil suit bearing No. 234/2017 and filed an application for an interim injunction, which the Court rejected. It is further pleaded that the wife and son of the defendant sold an 8-anna share in Gat No. 1656 to Pravin Pawar, and in that sale deed, it is mentioned that, on the southern side of the property, there is land in the possession of the plaintiffs. The

plaintiffs further stated that the names of Thakubai's legal heirs were not recorded in the record of rights, and that the defendant himself applied to have the names of Thakubai's daughters recorded in the revenue record. This shows that the defendant had no interest in the suit property. However, by taking advantage of his name on the revenue records, the defendant applied for the sale of the suit properties in his favour as a tenant.

6. The plaintiffs assert that they are cultivating various crops in the suit property. In the circumstances, the plaintiffs have prayed for a declaration of their ownership of the suit property and a permanent injunction directing the defendant not to disturb their possession of the suit property. The plaintiffs stated that they did not press the earlier interim injunction applications because the defendant stopped obstructing them. However, recently, the defendant resumed obstructing the plaintiffs. Hence, they have filed this application praying that the defendant be restrained from obstructing the plaintiffs in sugarcane cutting till the final disposal of this suit.

7. The defendant has filed a written statement and reply opposing the plaint and the application for temporary injunction. The defendant has denied all the plaintiffs' averments. It is contended that the suit properties are ancestral properties of the defendant and that he holds ownership to the extent of 8 anna share therein. According to the defendant, his father, Bhau Kesu Pawar, was cultivating the suit property to the extent of 8 anna share, while the remaining 8 anna share belonged to Thakubai Tukaram Pawar. The defendant further contends that the parties' respective shares had

already been crystallized and that a partition by metes and bounds had occurred in the past.

8. The defendant has further pleaded that his father had been cultivating the 8 anna share belonging to Thakubai Tukaram Pawar as a tenant since 1950, and that his name was accordingly recorded in the revenue records as the tenant of the said land. After the death of his father, the defendant and his mother continued to cultivate the said land. As the father of the defendant was cultivating the suit property on 01/04/1957, he became a deemed purchaser under the provisions of the Bombay Tenancy and Agricultural Lands Act, 1948.

9. The defendant asserts that after the death of the defendant's father, the proceedings under Section 32G of the said Act were not completed in favour of the defendant as he was then a minor. Consequently, a mutation entry bearing No. 7622 was recorded in the revenue record. The defendant has also stated that he constructed a well on the ancestral property and provided water to the suit lands via a pipeline.

10. The defendant has further contended that the Agricultural Lands Tribunal issued a certificate under Section 32G in his favour on 03/04/2017. The plaintiffs challenged the said order by filing Tenancy Appeal No. 86/2017 before the learned Sub-Divisional Officer, which was allowed. The defendant thereafter preferred a revision before the Maharashtra Revenue Tribunal, which was allowed.

11. Accordingly, the defendant's name was recorded in respect of the suit property to the extent of 8 anna share by Mutation Entry No. 6317. The entry regarding the deed executed by Dadasaheb and Krushnabai Anna Pawar was deleted pursuant to the said order. The defendant has further contended that the plaintiffs have not challenged the said mutation entry and that the same is still in force.

12. The defendant has asserted exclusive ownership over the suit properties. It is contended that the sale deeds executed in the years 1985 and 1986 were never acted upon. The plaintiffs have also failed to seek any relief in respect of the said sale deeds within the prescribed period of limitation. Therefore, according to the defendant, the plaintiffs cannot derive any enforceable right, title, or interest in the suit properties based on the said documents.

13. The defendant has further contended that he was not present when the sale deeds of 1985 and 1986 were executed. Therefore, the recitals regarding boundaries mentioned therein are not binding upon him. It is also pleaded that the suit lands were tenanted lands at the relevant time, and the mandatory permission of the competent authority was not obtained prior to the execution of the said sale deeds. According to the defendant, the sale deeds of 1985 and 1986 are void ab initio and do not confer any right, title, or interest on the plaintiffs.

14. The defendant has further pleaded that the suit property was subsequently sold in his favour after the deposit of the requisite purchase price, and a registered sale deed bearing No. 1026/2017 was executed in his favour on 06/05/2017. It is contended that no superior court has stayed the said transaction or the decision relating

thereto to date. The defendant has also stated that the plaintiffs have been obstructing the defendant's possession of the suit property for a long time. Therefore, the defendant instituted Regular Civil Suit No. 156/1987 against the plaintiffs. In the said suit, the defendant's application for a temporary injunction was rejected by the trial court. The defendant challenged the said order in an appeal before the learned District Court, and the appellate Court allowed the appeal and granted an injunction in favour of the defendant.

15. The defendant has further contended that the plaintiffs have taken contradictory stands in different proceedings. In Regular Civil Suit No. 234/2017, the plaintiffs filed a written statement stating that there was no partition between Thakubai and Bhau. According to the defendant, this stand is contrary to the pleadings taken by the plaintiffs in the present suit. It is therefore contended that the plaintiffs have not approached the Court with clean hands. On these grounds, the defendant has prayed that the suit be dismissed with compensatory costs of Rs. 25,000/-.

16. The learned Trial Court, while deciding the application at Exhibit 41, concluded that

- A] The plaintiffs have made out a prima facie case.
- B] The balance of convenience lies in favour of the plaintiffs.
- C] The plaintiffs will suffer irreparable loss if the application at Exh. 41 is rejected.

Accordingly, the learned Trial Court allowed the application at Exhibit 41. The defendant challenges the said order in this appeal for the following reasons.

1. The impugned order passed by the learned Trial Court is contrary to the principles of natural justice and is neither just nor equitable.
2. The learned Trial Court allowed the application below Exhibit 41 without properly considering the written and documentary evidence on record, thereby causing serious prejudice to the defendant.
3. The plaintiffs have failed to establish any prima facie case. The present suit appears to have been instituted solely to cause mental harassment and financial loss to the defendant.
4. The plaintiffs have filed the present suit by misusing the process of law in order to pressure and intimidate the defendant and to extract the standing crop from the suit property.
5. In the present proceedings, the plaintiffs moved interim injunction applications on two occasions but failed to pursue them. This conduct indicates that the plaintiffs had no genuine legal necessity for such applications.
6. The claim raised by the plaintiffs in respect of the alleged sale deeds of the years 1985–1986 is clearly barred by limitation. Interim relief could not have been granted on the basis of such a time-barred claim.
7. The order dated 09/12/2025 passed by the Revenue Tribunal, Pune, has been stayed for 60 days to enable the respondent to approach the Hon'ble High Court by way of appeal. The learned Trial Court failed to consider this material aspect while granting the application below Exhibit 41.
8. As per Mutation Entry No. 9442, the name of the defendant was deleted, and the names of the plaintiffs were recorded in the Record of Rights of the suit property on 23/07/2025.

9. The suit property currently has a standing sugarcane crop, ready for harvest. The plaintiffs have made false statements in the plaint that the said crop would be harvested within 5 months.
10. The learned Trial Court ignored the receipts for the previous year's sugarcane supply, which were produced before the Court. The order passed without considering the said documentary evidence is liable to be set aside.
11. It appears that Mutation Entry No. 9442 was taken on the basis of an oral instruction allegedly given telephonically by the Deputy Tahsildar on 18/07/2025, without any written order. Therefore, the said mutation entry is illegal.
12. The alleged sale deeds relied upon by the plaintiffs are fundamentally illegal as they were executed without obtaining prior permission from the competent revenue authority.
13. The alleged purchase deeds executed by the heirs of Hausabai and Rangubai is also illegal, as there is no evidence that Thakubai received a separate share after partition.
14. The learned Trial Court ignored the material evidence on record and passed the impugned order solely on the basis of the plaintiffs' statements, thereby causing grave injustice to the defendants.
15. The plaintiffs have not approached the Court with clean hands. On the contrary, the defendant has spent substantial amounts, running into lakhs of rupees, for the cultivation of the sugarcane crop on the suit land.
16. The learned Trial Court failed to properly consider the essential requirements for the grant of a temporary injunction, namely, a prima facie case, the balance of convenience, and irreparable loss,

and therefore, the impugned order is liable to be set aside.

17. The plaintiffs suppressed material facts from the Court by failing to disclose the order passed in Regular Civil Suit No. 156/1987 and in Miscellaneous Civil Appeal No. 119/1988. The decision rendered without considering these material proceedings is therefore unsustainable.

For these grounds the appellant has prayed that the appeal be allowed and the order dated 19/01/2026 passed below Exhibit 41 in Regular Civil Suit No. 77/2022 be set aside.

17. Considering the pleadings of the parties, the application at Exhibit 41, the documents placed on record, the submissions advanced by the learned advocates for both sides, the grounds raised in the appeal memo, and the impugned order passed by the learned Trial Court, the following points arise for my determination. My findings on the said points are recorded as follows, for the reasons to be discussed hereinafter.

<b>Sr. No.</b>	<b>Points</b>	<b>:</b>	<b>Findings</b>
1.	Have the plaintiffs established a prima facie case?	:	Partly in the affirmative.
2.	Have the plaintiffs proved that they would suffer irreparable loss if the application at Exhibit 41 is rejected?	:	Partly in the affirmative.
3.	In whose favour does the balance of convenience lie?	:	Partly in favour of plaintiffs
4.	Does the impugned order need interference?	:	Partly in the affirmative.

5.	What order?	: Miscellaneous Appeal is partly allowed as per the final order.
----	-------------	--

### REASONS

18. Before considering the merits of the matter, it is necessary to state the admitted facts. It is admitted that Tukaram, the husband of Thakubai, and Bhau, the father of the defendant, were real brothers. It is further admitted that the suit properties are ancestral properties of Tukaram and Bhau. It is also admitted that Thakubai had instituted Regular Civil Suit No. 134/1951 against Bhau Kesu Pawar. A copy of Exhibit 1 from the execution proceedings based on R.C.S.No.134/1951 has been produced on record in the paper-book. The said document reiterates the decree passed in the said suit. The said decree shows that the issue of whether Tukaram Kesu Pawar and the defendant in that suit had separated during Tukaram's lifetime remained pending without adjudication. The decree further records that the plaintiff therein, namely Thakubai, was entitled to  $\frac{1}{2}$  share in the suit properties under the Act of 1937. It was further provided that Thakubai was entitled to obtain possession of her share by effecting partition of the properties by metes and bounds through the Collector.

19. It is also necessary to refer to the final order and remarks recorded in the said execution proceedings. The record shows that on 04/07/1953, a warrant was issued. Thereafter, the decree holder, namely Thakubai, applied that joint possession is received and on 29/08/1953, a possession warrant was issued. Pursuant thereto,

possession was delivered to her. However, the *jangam* warrant was not executed for want of payment of the requisite process fee as per the remarks recorded in the execution proceedings. This, indicates that possession of the property was delivered jointly. In view of the above discussion regarding the documents on record, it clearly appears that separate possession of the suit properties by partition through metes and bounds was never handed over to the then plaintiff Thakubai. The earlier suit ended in a compromise, and the record of execution proceedings shows that she had applied for joint possession. In such circumstances, a prima facie inference can be drawn that the possession of the branches of Thakubai and Bhau was never separated by metes and bounds.

20. In this background, it becomes necessary to consider the provisions of Section 4 of the Maharashtra Tenancy and Agricultural Lands Act, 1948 (as applicable in Maharashtra). Section 4 provides that a person lawfully cultivating any land belonging to another person shall be deemed to be a tenant if the land is not cultivated personally by the owner and if such person is not a member of the owner's family. Considering the above discussion, it prima facie appears that the defendant is a member of the original owners' family. Had there been a partition by metes and bounds, and had separate possession of each share been delivered to the respective owners, the defendant's claims could have been considered on a different footing. However, prima facie such a situation does not emerge from the record of the earlier proceedings.

21. Another important aspect that requires consideration is that the Civil Court does not have jurisdiction to decide the parties'

tenancy rights. Admittedly, tenancy proceeding is pending before the Hon'ble High Court, and the defendant has placed on record the latest decision of the Maharashtra Revenue Tribunal and the order of the Hon'ble High Court in that regard. The decision of the Maharashtra Revenue Tribunal dated 09/12/2025 shows that the order passed by the Sub-Divisional Officer, Man Khatav Sub-Division, Dahiwadi in Tenancy Appeal No. 86/2017 dated 21/02/2018 was confirmed, and the revision preferred by the present defendant came to be dismissed. This clearly indicates that the decision of the Sub-Divisional Officer was against the present defendant, and that the Tribunal affirmed it.

22. The learned advocate for the defendant submitted that the Maharashtra Revenue Tribunal had stayed the operation of its decision for a period of 60 days in order to enable the defendant to challenge the said decision before the Hon'ble Bombay High Court. A copy of order in Writ Petition No.706 of 2026 is filed on record which shows that the Hon'ble Bombay High court was pleased to continue the stay granted by the Maharashtra Revenue Tribunal until further orders.

23. The defendant has placed on record certain panchanamas prepared by the revenue authorities, indicating that he had cultivated sugarcane on the suit property. He has also produced sugarcane receipts on record. However, such panchanamas and receipts do not prima facie advance the case of the defendant, because the position that emerges from the record of the execution proceedings arising out of Regular Civil Suit No. 134/1951 is that the legal heirs of Thakubai, or their successors in title, continued to remain in joint

possession of the suit property along with the defendant. Therefore, mere cultivation of the land by the defendant would not strengthen his claim.

24. The defendant has come with the case that the relief claimed by the plaintiffs based on the sale deeds executed in the year 1985 and 1986 is not maintainable as it is barred by limitation. The plaint shows that the suit is instituted for declaration of ownership of the plaintiffs and for injunction. The cause of action to the relief of declaration of ownership would arise when the defendant denies the ownership of the plaintiffs. The plaint shows that the cause of action to the present suit arose when on 15 January 2022, the defendant came to the suit property and threatened the plaintiffs. Therefore, it cannot be said that the suit is barred by limitation *prima facie*.

25. Another important objection raised by the defendant is that the sale deeds of the plaintiffs executed by the original owners in the year 1985 and 1986 respectively are not legal because the permission of competent authority was not obtained before execution of the sale deeds. This defence is connected to the claim of tenancy advanced by the defendant. However, as discussed above, the defendant's claim of tenancy is *sub-judice* before the Hon'ble Bombay High Court. Therefore, the question of requirement of permission of the competent authority to execute such sale-deeds cannot be decided at this stage of the suit.

26. The defendant had earlier instituted Regular Civil Suit No. 156/1987 against the present plaintiffs and had filed an application at Exhibit 5 seeking a temporary injunction. The learned Trial Court rejected the said application. Being aggrieved thereby, the defendant

preferred Miscellaneous Civil Appeal No. 119/1988 before the learned District Court. The appellate Court allowed the said appeal and granted a temporary injunction in favour of the present defendant. However, the execution proceeding based on the decree in R.C.S.No.134/1951 prima facie shows that Thakubai was put in joint possession with Bhau and there is no prima facie evidence of subsequent partition by metes and bounds. On the other hand, the claim of tenancy right over the suit property advanced by the defendant is pending for consideration of the Hon'ble Bombay High Court. In the circumstances, merely because the previous application for interim injunction filed by the defendant was granted, this application filed by plaintiffs cannot be rejected.

27. It is submitted on behalf of the defendant that the Mutation Entry No. 9442 was recorded by the revenue authorities illegally on the oral instructions of the Resident Tahsildar. It is to be noted that the said mutation entry is based on the order passed by the Honorable Bombay High Court in Writ Petition No. 7918 of 2021. The Hon'ble High Court was pleased to quash and set aside the order passed by the Maharashtra Revenue Tribunal in Revision Application No. NS/III/2/2028 and remanded it to the said Tribunal to decide. By that entry, the name of the defendant was deleted and the name of the plaintiffs were restored to the revenue records. Therefore the said mutation entry will not have any effect on the rights of the defendant.

28. In the circumstances discussed above, it clearly appears that the plaintiffs have failed to prima facie establish that the suit properties were partitioned by metes and bounds. However, the

material on record prima facie indicates that the plaintiffs are entitled to joint possession of the suit properties along with the defendant. The plaintiffs are therefore entitled to seek the relief of not ousting them from the suit properties till the final decision of the suit. The plaintiffs have thus established a prima facie case only to the limited extent of protecting their joint possession. Hence, Point No. 1 is answered partly in the affirmative.

**As to Point No. 2:-**

29. If the plaintiffs are ousted from the suit property during the pendency of the suit, they would suffer irreparable loss. On the other hand, the tenancy claim of the defendant is pending for consideration before the Hon'ble Bombay High Court. Therefore, Point No. 2 is answered partly in the affirmative.

**As to Point No. 3:-**

30. Considering the above discussion, the balance of convenience partly lies in favour of the plaintiffs. Accordingly, Point No. 3 is answered partly in the favour of plaintiffs.

**As to Point No. 4:-**

31. I have carefully gone through the order passed by the learned Trial Court. Though the learned Trial Court failed to consider the vital aspect of the delivery of joint possession to Thakubai in the execution of the compromise decree in Regular Civil Suit No. 134/1951, the learned Trial Court has restrained the defendant from obstructing the peaceful possession of the plaintiffs in the suit

properties. As observed earlier, if the parties were placed in joint possession at the time of execution of the compromise decree, the plaintiffs cannot, prima facie, obtain the relief in the exact form as claimed by them. However, they are entitled to protection against being ousted from the suit properties by the defendant. Therefore, the order passed by the learned Trial Court requires interference to a limited extent. Hence, Point No.4 is answered partly in the affirmative.

32. Before parting with the order it is necessary to note that the suit and this appeal and all the orders passed therein are subject to the orders of the Hon'ble Bombay High Court in Writ Petition No.706/2026.

I pass the following order.

**ORDER**

1. The Miscellaneous Civil Appeal is partly allowed.
2. The order passed by the learned Joint Civil Judge, Senior Division, below Exhibit 41 in Regular Civil Suit No.77/2022 is quashed and modified as follows:
  - i) The application at Exhibit 41 is partly allowed.
  - ii) The defendant is restrained from ousting the plaintiffs from the suit properties described in paragraph No. 1 of the plaint until final disposal of Regular Civil Suit No. 77/2022.

3. The parties shall bear their own costs of this appeal. The costs of the application at Exhibit 41 shall be in the costs in the main suit.
4. The Miscellaneous Civil Appeal stands disposed of accordingly.
5. Inform the learned Trial Court accordingly.

Vaduj  
Dt. 09/03/2026

(Vidyadhar B. Kakatkar)  
District Judge-1 Vaduj

**CERTIFICATE**

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

*(S. A. Pawar)*  
*Stenographer Grade-1*