

CNR No.MHST180002402023



IN THE COURT OF JT. CIVIL JUDGE SENIOR DIVISION, VADUJ  
(Presided over by Smt. F. B. Baig )

Special Civil Suit No.71/2023

Shankarrao Jagdale & Ors - Plaintiffs

Versus

Milind Jagdale & Ors. - Defendants

=====

ORDER BELOW EXH.5.

( Passed on 31<sup>th</sup> day of January, 2026 )

Present application is filed by plaintiffs against defendants No.1, 12, 15, 19 and 23 under Order XXXIX, Rule 1 & 2 of the Code of Civil Procedure,1908 to restrain them from alienating the suit properties in any manner or creating any third party interest or encumbrance over the suit properties or changing its original nature in any manner, till the final decision of this suit.

02. It is contended by the plaintiffs that they have filed this suit for partition and separate possession of the suit properties with consequential relief of perpetual injunction. The original owner of the family of plaintiffs and defendants was Dadaso Mahadeo Jagdale. The name of his wife was Sundarabai. Dadaso had one son named, Mahadeo

and the name of his wife was Tanubai. Mahadeo had three sons namely, Shankarrao, Dadasaheb and Subhashrao and two daughters named Indumati and Lilawati. Shankarrao has wife named Vijaya and daughters namely, Anuja and Ashwini, he has one son named Laxmikant. The name of wife of Laxmikant is Amruta and Adhira is his daughter. Dadasaheb has a wife namely, Sonabai. Sunita, Jyoti and Priyanaka, Madhuri, Shubhangi and Rupali are his daughters and Milind is his son. Sarika is the wife of said Milind and Jairatna and Neelratna are his sons. Subhash has wife namely, Ujwala and Udayasingh, Sanjay are his sons. Geetanjali is his daughter. Said Udayasingh has wife namely, Vaishnavi and children namely, Swaranjali and Sairatna. The name of wife of Sanjay is Pragati. He has children namely, Rajratna and Kavayanjali. Mahadeo died on 23.01.1990 and Tanubai died on 13.05.2003. Thereafter, Dadaso died on 13.12.2019.

03. The suit properties which are agricultural lands and house properties are specifically mentioned in Scheduled A, B, C, D, E, F, G, H and I, situated at village Dahiwadi, Pingali Khurd, Pingali Budruk, Shinganapur, Mhaswad Tal. Man, Dist. Satara Ambegaon Budruk, Tal. Haveli, Dist. Pune. Some of the suit properties are ancestral properties and some are purchased out of the joint family income. The suit properties are not yet divided by way of partition by metes and bounds between plaintiffs and defendants. Defendants No.23 and 24, who are sisters and Tanubai who is mother of plaintiffs and defendants have executed a registered relinquished deed, in favour of plaintiff No.1, Dadaso and defendant No.12. Some of the suit properties are in the name of defendants No.1, 12, 15, 19 and 23, while some are in the name of defendants No.15 and 19 jointly. But, these properties are

purchased out of the income arising from their joint family. These defendants have admitted the said fact by executing an affidavit to that respect. When the plaintiffs demanded their lawful share out of the suit properties from the defendants, they denied to effect the partition. Defendants No.1, 12, 15, 19 and 23 are trying to alienate the properties which are standing in their names and creating third party interest over it.

04. Plaintiffs have filed the present application for temporary injunction on the ground that defendants are trying to defeat the lawful share of the plaintiffs in the suit properties. They are trying to obstruct the plaintiffs common possession over the suit properties. If temporary injunction is not granted, the very purpose to file this suit will be frustrated. Plaintiffs will suffer irreparable loss, if injunction is not granted. On the other hand, order of injunction will not cause any prejudice to the defendants. Defendants are trying to change the original nature of the suit properties by way of creating third party interest over it. They have threatened plaintiffs to do so. Defendants No.1,12,15,19 and 23 are trying to take disadvantage of their names recorded to the suit properties and are in an attempt to alienate the suit properties to the third person and trying to change its nature. Hence, this application.

05. Defendants No.12 to 22 have filed their say to this application at Exh.125. It is alleged that the application is false. The description of the suit properties is incomplete and wrong. The boundaries are not true. Hence, the suit is liable to be dismissed. Plaintiffs have sought the relief of partition. No relief of declaration is claimed. Suit properties are not ancestral or joint family properties of plaintiffs and defendants. They have no joint family. Since last many years, their families are

residing separately and they have independent financial transactions. They are residing in separate houses and have separate ration cards. They have separate independent entries in electoral roll. They have independent electric meters for their residential houses and and paying separate properties taxes. Defendants have purchased some of the suit properties independently. Defendant No.15 is the residing separately since the year 2007. He is running a liquor shop at Rahimatpur. Thereafter, defendant No.15 transferred his shop at village Mhaswad, out of which, he is earning good income. For running the said business, defendant No.15 purchased 3R land out of Survey No.167/5 (old Survey No.1236/5) out of his own income from one Sampat Chopade by way of sale deed. Accordingly, his name is recorded to the 7/12 extract through M.E No.23892. He is in possession of the said land. It was not the joint family property. No such affidavit as alleged was executed by defendant No.15 before Tahsildar and Executive Magistrate, Dahiwadi, Tal. Man, admitting the joint family nature of the said property. Such affidavit if any does not bear his signature. This is false and forged affidavit. The alleged agreement dated 01.08.2017 was never executed by the defendants. This is also a forged document. On the basis of such forged documents, no inference can be drawn that the suit properties are ancestral and joint family properties.

06. They further contended that said survey No.1236/5 i.e. new Survey No.167/5 is purchased by defendant No.15 for his business. He has spent an amount of Rs.17,00,000/- for the development of the said land. He has constructed 10 blocks with tin sheet over the said land. He has taken an electric meter and completed the tile work inside the said blocks. Defendant No.15 is using the said premises. Plaintiffs have no concern with it. In order to grab the said property, plaintiffs have filed

false suit and false application. Since the year 2012, plaintiffs are taking huge amount of rent, out of the properties which came to the share of defendants. But they have not mentioned this fact in the plaint. Already the partition of their ancestral properties took place. Accordingly, the memorandum of the partition is prepared in the year 2012, in which, it is specifically mentioned as to which property given to whom. Plaintiffs have not brought on record the said memorandum. The suit is not filed within limitation. Plaintiffs have no prima-facie case. Plaintiffs have suppressed the material facts from the Court, hence, they are not entitled for the relief of temporary injunction. Hence, defendants No.12 to 22 prayed for rejection of this application.

07. Defendants No.23 and 24 have filed their written statement at Exh.141. It is contended that the suit of the plaintiffs is admitted to them. Some of the suit properties are ancestral and the remaining are purchased out of the joint family income. These defendants have no objection to grant the relief claimed by the plaintiffs. Until the partition of the suit properties takes place, no one can change the nature of the suit properties or create any third party interest over it. They are ready to pay the Court fees on their share as decided by the Court. These defendants also have their lawful share out of the suit properties, being coparceners. Hence, they prayed for granting the temporary injunction as prayed by the plaintiffs.

08. Defendant No.1 filed his say to this application at Exh.132, by which, he also admitted the claim of the plaintiffs by way of this application. He also admitted that the suit properties are ancestral and joint family properties of plaintiffs and defendants which are still not divided by way of partition. Hence, he also prayed for granting the relief of temporary injunction as prayed by the plaintiffs.

09. Heard argument on both the sides at length.

10. The plaintiffs have relied upon the case laws of the Hon'ble Supreme Court as under:

**1. *Nazar Mohd. Khan Vs. Arshad Ali Khan, 1995 SC 1335,*** wherein it is held by the Hon'ble Apex Court that:-

*“a co-sharer has no right to raise construction on a particular piece of land until it is partitioned by metes and bounds.”*

**2. *Om Prakash Vs. Chhaju Ram, 1992 Supreme (P & H) 417,*** wherein, it has been held by the Hon'ble Apex Court that:-

“a co-sharer in exclusive possession of a part of joint land cannot raise construction on the land as every co-sharer is a joint owner of every inch of the whole land.

The facts of both the case laws and of the case in hand, are not similar. The construction which is made by defendant in the case in hand is like a tin sheet construction which is temporary. Hence, both the case laws are not helpful to the plaintiffs.

11. On the contrary, defendants No.12 to 22 have relied upon the case laws are as under :-

**1. *Therakan D. Joseph Vs. Dolphin Developers, 2014 (4) Mh.L.J 391,*** wherein, it has been held by the Hon'ble Bombay High Court that:-

“The grant of temporary injunction in respect of the construction covers the cases of extreme hardship and injustice, where the construction activity going on since long, no case made out for grant of temporary injunction”.

Considering the facts of the case law, it appears that plaintiffs have taken objection in respect of the construction immediately, hence, the ratio laid down in the said case law is not helpful to the defendants.

**2. *Prakash Akotkar Vs. Mansur Khan Gulab Khan, AIR 1996, Bom. 36***, wherein, it has been held by the Hon'ble Bombay High Court that:-

“Co-owner is in possession of the property for and on behalf of other co-owners. Hence, he cannot claim injunction against the other co-owners restraining them from interfering with his possession and enjoyment of the suit property so as to exclude them from exercising their right as co-owners.”

The ratio laid down in the said case law is helpful to the facts of this case in hand.

**3. *Laxman Bodake Vs. Vitthal Bodake, 2008 (6) AIR BOM R 581 (DB)***, wherein, it has been held by the Hon'ble Bombay High Court that:-

“In view of Order VI Rule 2, the oral evidence in the absence of pleading has to be ignored.”

The said case law is not helpful to the defendants at this stage while deciding an application for temporary injunction.

**4. *Mandali Ranganna Vs. T. Ramchandra, 2008 (4) ALL MR 932***, wherein, it has been held by the Hon'ble Apex Court that:-

“In a suit for partition and possession, prima facie respondents in possession of suit properties for a long period rightly or wrongly huge constructions raised spending about three crores of rupees, cannot be stopped at such a stage, subject to the ultimate decision of the suit, respondent allowed to proceed with the construction.”

The facts of the case law and of the case in hand, are not similar. In the case in hand, the construction made by the defendants is temporary in nature, hence, the ratio of the case law is not helpful to the defendants.

5. ***Y.T. Entertainment Ltd, Vs. One More Thought Entertainment Pvt, Ltd, 2009(5) ALL.M.R 555***, wherein, it has been held by the Hon'ble Bombay High Court that:-

“Before passing any order or injunction or interim relief, the aspects of delay and laches and the conduct of the parties are also necessary and relevant.”

The facts of the case law shows that both the plaintiffs and defendants have suppressed the material fact. Hence, the said case law is also not helpful to the defendants.

6. ***Smt. Rekha Marotkar Vs. Rambhau Khadgi, AIR 2007 (Bom) 135***, wherein, it has been held by the Hon'ble Bombay High Court that

“The relief of temporary injunction is equitable relief, plaintiffs who were negligent and who had slept over their rights are not entitled to such equitable relief.”

Considering the facts of this case, there is no such negligence appears on the part of plaintiffs. Hence, this case law is not helpful to the defendants.

12. Defendant No.1 relied upon the judgment of of Hon'ble Bombay High Court in a case of ***Smt. Premlata D/o Ramlal Shahu & Anr Vs. Chandrakant s/o Gayaprasad & Anr, 2011 (6) ALL MR 71***, wherein, it has been held by the Hon'ble Bombay High Court that:-

“In a suit for partition, every co-owners whether

plaintiff or defendant is as good as plaintiff and no Court can say that only the share of the plaintiff should be carved out and rest of the co-owners should fight a separate battle.”

Facts of the case law are not similar to the facts of this case in hand. In case law question was about execution of preliminary decree. Hence, this case law is not helpful to defendant No.1.

13. Points for determination and findings thereon along-with the reasons stated thereto are as under.

<b>Sr. No.</b>	<b>Points</b>	<b>Findings</b>
01]	Whether plaintiffs have made out : prima-facie case ?	“Partly yes”
02]	Whether there is balance of convenience in favour of plaintiffs ? :	“Partly yes”
03]	Whether irreparable loss would be caused to plaintiffs, if injunction is withheld ?	“Partly yes”
04]	What order ?	: “As per final order”

### **REASONS**

14. In support of this application at Exh.5, plaintiffs have relied upon his own affidavit at Exh.6 and documentary evidence such as 7/12 extract of all the agricultural lands and assessment list issued by Municipal Council, property card extracts, Namuna 8 extract of all the suit house properties, xerox copies of documents such as Index-II of flat No.203, affidavit executed by Milind Jagdale, Shankar Jagdale,

Laxmikant Jagdale, Subhashrao Jagdale, Udaysingh Jagdale and Sanjay Jagdale before the Executive Magistrate, Dahiwadi-Man, affidavit of witness in support of Exh.5 namely, Raviraj Sarate, Vikas Lokhande, Anand Sartape, photographs of the suit properties showing the construction, the notice issued by Nagarparishad, Mhaswad to defendant No.15, photo copies of whats app messages, notary agreement between plaintiff and defendants dated 1<sup>st</sup> August, 2017.

15. On the other hand, defendants No.12 to 22 have relied upon the documentary evidence such as construction agreement between defendant No.15 and contractor, the payments receipts to the contract, the advance receipts to the contractor, the receipt of Quotation and challan paid by plaintiff to M.S.E.B for electricity connection, the online payment receipts toward the electricity connection and payment bills, photographs of the suit properties, the xerox copy of the sale deed in the name of defendant No.15 dated 27.11.2007, 7/12 extract of S. No. No.167/5, N.A permission in respect of S.No.167/5, affidavit of defendant No.15.

16. Defendants NO.1 to 9 relied upon the xerox copy of application filed to CEO Mhaswad Nagarparishad about the illegal construction made by defendant No.15, affidavit executed by defendant No.15 before the Executive Magistrate, Dahiwadi-Man, the notice issued by CEO Nagarparishad, Mhaswad to defendant No.15 about the illegal construction etc.

**As to Point Nos. 01 to 03 :-**

All the three points are interconnected, hence discussed and decided together.

17. Plaintiffs have filed this suit for partition and separate possession of their 1/3rd share out of the suit properties and also for the partition in the joint family income arising out of the suit properties, for perpetual injunction to restrain defendants No.1, 12, 15, 19 and 23 from changing the nature of the suit properties and from alienating the suit properties. By filing this application on Exh.5, plaintiffs are claiming that defendants No.1, 12, 15, 19 and 23 are trying to take disadvantage of their names recorded to some of the suit properties and attempting to alienate the suit properties, creating third-party interest and changing the original nature of the suit properties. Hence, plaintiffs are praying for restraining them from doing so, till the final decision of this suit.

18. It has to be mentioned here that nothing is mentioned by the plaintiffs as to which properties out of the suit scheduled properties are in the name of defendants No.1, 12, 15, 19 and 23. It is also not mentioned by the plaintiffs either in the plaint or in Exh.5 that what kind of acts are done by said defendants towards the alienation of the properties in their names. Plaintiffs are claiming the suit scheduled properties which are agricultural lands and suit house properties as their ancestral as well as properties purchased out of the joint family funds. Nothing is mentioned by the plaintiffs as to which properties are their ancestral properties and which properties are their joint family properties. It is mentioned by the plaintiffs in their plaint that, they both have decided to cultivate the suit properties as per their possessions and accordingly, they will get the suit properties divided between them by way of partition. It has to be mentioned here that, nothing is stated by the plaintiffs in their plaint that which property has been in possession of which of the plaintiffs and defendants. A vague contention is made

by the plaintiffs regarding their possession over the suit properties.

19. Further, plaintiffs are relying upon the certain documents like the affidavit executed by Milind Jagdale, Shankar Jagdale, Laxmikant Jagdale, Subhashrao Jagdale, Udaysingh Jagdale and Sanjay Jagdale before the Executive Magistrate, Dahiwadi-Man and a xerox copy of partition agreement and a draft of partition suit dated 01.08.2017. The said affidavits executed by plaintiffs and defendants before the Executive Magistrate, Dahiwadi in the month of February, 2020, shows that the above named persons have blended their self acquired properties in the joint family properties. Further, the xerox copy of agreement for partition between plaintiffs and defendants dated 01.08.2017, shows that they have decided to divide the suit properties and such draft showing the fixation of shares out of the suit properties together with the draft of suit for partition was accordingly prepared between them. However, there is no single word mentioned by the plaintiffs in their plaint regarding both the above documents such as the affidavits before the Executive Magistrate and agreement for partition. This shows that plaintiffs have suppressed material facts from this Court. Nothing is mentioned by the plaintiffs as to how, there is common possession of plaintiffs and defendants over the suit properties. The 7/12 extracts of the suit properties relied upon by the plaintiffs shows that Gat No.352/2/2 is in the name of defendant No.15, Gat No.483/13/1 is in the name of plaintiff No.1 and defendant No.1, Gat No.486/1A/20 is in the name of defendant No.1, Gat No.535 is in the name of defendant No.12, Gat No.538/1A/3 is in the name of defendant No.1, Gat No.538/1A/1/2 is in the name of plaintiffs, Gat No.570/5 is in the name of defendant No.19, Gat No.570/6 is in the name of defendant No.23, Gat No.570/7 is in the name of defendant

No.5 and 19. The names of above defendants to the above mentioned suit properties are recorded separately in Hector and R. However, certain suit properties like Gat No.575/2A/1, Gat No.575/2A/2, Gat No.575/2B/1/2, Gat No.575/3, Gat No.576/1, 576/2B, Gat No.576/3, Gat No.578/2, Gat No.578/5 etc. are in common between plaintiffs and defendants. The suit house properties are in the name of their ancestor deceased Mahadeo and some other suit house properties are in common between plaintiffs and defendants. Nothing is mentioned by the plaintiffs as to why some of the suit properties are recorded independently in certain share in the name of defendants and the remaining are recorded in common between them. Plaintiffs are claiming that some of the suit properties are purchased by the plaintiffs and defendants out of the joint family funds. It has to be established by the plaintiffs by way of oral and documentary evidence that the suit properties are purchased by the defendants out of the joint family funds. Nothing is mentioned in the plaint regarding the joint family business of the plaintiffs. However, at present, considering some of the 7/12 extracts and the property card extracts of the suit properties, it is clear that there is common possession and ownership of the plaintiffs over some of the suit properties.

20. It is the specific contention of the defendants No.12 to 22 that they are not the members of joint family. They are already separated from each other prior to many years. They have separate ration cards, election cards, electricity meters and separate houses etc. Defendant No.15 has purchased Survey No.1236/5, new survey No.167/5, out of his own income by way of a registered sale deed dated 27.11.2007. Accordingly, his name is recorded to the said property, with which, plaintiffs or other defendants have no concern. The affidavit filed on

record by the plaintiffs, before the Executive Magistrate is a false affidavit, which he has never executed. The signature on that affidavit is not his signature, nor the photograph is his photograph. The said affidavit is false and bogus. At the same time, defendant No.15 denied the execution of any agreement for partition dated 01/08/2017. It is specifically contended by the defendant No.15 that by purchasing the said survey No.167/5 which is one of the suit property, he has spent an amount of Rs.17,00,000/- towards construction of tin shed, 10 blocks for making a commercial use of it. He has sought an electric connection and other basic necessities required for the said construction. Plaintiffs and other defendants have no concern with the said tin shed. Plaintiffs are intentionally trying to deprive defendant No.15 from enjoying his own property. On the contrary, plaintiffs by not giving the properties which came to the defendants No.12 to 22 in partition, enjoying themselves by taking income out of it. Plaintiffs are trying to cause financial loss to the defendants by filing such false application for temporary injunction. The partition of the suit properties already took place between both the parties in the year 2012, in respect of which, they have prepared a memorandum of partition. Said memorandum is not brought on record by the plaintiffs intentionally. Plaintiffs have suppressed material facts and not come to the Court with clean hands.

21. From the reading of written statement and say, it appears that defendant No.15 has raised the contention regarding only one Gat number i.e. Gat No.167/5. Defendant No.15 has filed on record the xerox copy of the sale deed in his name. Prima facie, it appears that the said gat number is purchased by defendant No.15 alone. However, nothing is stated by defendant No.15 or the other defendants, regarding the remaining suit properties. If as per the contention of the defendants,

the partition of the suit properties has already taken place in the year 2012 and the memorandum was prepared, then what obstructed defendants from filing such memorandum of partition on record. Nothing is stated by the defendants as to which of the suit properties given to them in partition and to what extent. The mutation entries in respect of the partition if any, are not filed on record by the defendants. It is also not explained by defendants that which properties are in possession of plaintiffs. It appears that by filing of written statement and say, defendants No.12 to 22 are specifically contending about only one Gat number i.e. Gat No.167/5. This clearly shows that defendants are also suppressing material facts from the Court.

22. The genealogy of plaintiffs and defendants is admitted to both the parties. It is an admitted position that the ancestor of the plaintiffs and defendants was Dadasaheb, who had a son namely, Mahadeo. Said Mahadeo had three sons namely, Shankar, Dadasaheb and Subhashrao and two daughters namely, Indumati and Leelawati. Plaintiffs and defendants are the children of the three sons of Mahadeo. It has to be proved by plaintiffs that the suit properties are their ancestral and joint family properties, which are yet not divided by way of partition. At the same time, defendants No.12 to 22 are also required to prove that they have purchased some of the suit properties out of their own income and hence, these are their self acquired properties. Admittedly, as discussed earlier, neither plaintiffs, nor defendants have stated about their respective possession over a particular gat numbers. Vague statements are made by both the parties regarding their possession over the suit properties. Both have suppressed material facts. It is a well settled principle of law that the possession of one coparcener is the possession by and on behalf of all the coparceners. Admittedly, every coparcener is

entitled to every inch of the ancestral and joint family properties until divided by way of partition. It is also a well settled principle of law that no coparcener can be restrained from enjoying the ancestral/joint family properties equally with the other coparcener.

23. Considering the above discussion and from the perusal of the documentary evidence like 7/12 extracts and properties card extracts on record, prima-facie it appears that the suit properties are the ancestral properties of plaintiffs and defendants. The contrary is required to be proved by the concerned party. During the pendency of this suit, plaintiffs have filed an application below Exh.85 for granting them status-quo against construction which was being carried out by defendant No.15 over the Gat No.167/5. That application came to be decided on merit and till the further order on Exh.5, defendant No.15 was restrained from making any further construction over that Gat number. From the perusal of the photographs filed on record and the contention of plaintiffs and defendant No.15, it is clear that the said construction on Gat No.167/5 (1236/5) is not a permanent construction in nature. In fact, it is made with iron angles and tin sheets and made for commercial use. At present, there is a registered sale deed in the name of defendant No.15, which shows that he has purchased the said gat number in the year 2007. Accordingly, the revenue record shows his name to this particular gat number. Admittedly, defendant No.15 is bound to prove the self acquired nature of this gat number. However, he cannot be restrained by an order of temporary injunction from enjoying it, even if, it is presumed for the sake of moment that the said property is also their joint family property. Prima-facie, there appears the possession of defendant No.15 over this particular Gat number. The construction also appears to be of temporary nature.

Admittedly, the original nature of the suit property Gat No.167/5 (1236/5) is not going to be changed. Plaintiffs are already enjoying the suit properties which are in their possession, about which defendants have not raised any objection, till date. Hence, defendant No.15 or other defendants also cannot be restrained from the enjoyment of the properties which are in their possession.

24. Admittedly, both the parties have suppressed material facts from the Court, but, from the available pleading and documents on record, it is clear that prima facie the suit properties appears to be their ancestral properties, unless the contrary is proved. It is the purpose of Order XXXIX Rule 1 and 2 of the Code of Civil Procedure,1908, that the property in dispute in a suit has to be protected from being wasted, damaged or alienated by “any party to the suit”. During the pendency of this suit, suit properties have to be protected by way of an order of temporary injunction, so that the purpose to file the suit would not be frustrated. Though the plaintiffs are claiming the relief of temporary injunction only against few of the defendants, but still, the suit properties are in the name of both the plaintiffs and defendants. Under such circumstances, all the suit properties are required to be preserved, till the final decision of this suit.

25. Plaintiffs are claiming the relief of temporary injunction against alienation, creation of third-party interest and changing the nature of the suit properties only against the defendants No.1, 12, 15,19 and 23. But, considering the nature of this suit and the particular circumstances, all the plaintiffs and defendants are required to be restrained by an order of temporary injunction, but only in respect of alienation of the suit properties. It is already discussed that coparceners cannot be restrained from enjoying the suit properties unless, there are

such compelling circumstances. Plaintiffs have not made out any such circumstances to restrain the defendants from enjoying suit properties. It is already held that the construction made by defendant No.15 on suit property Gat No.167/5 is a construction of temporary nature. Hence, he cannot be dispossessed out of it, as he has spent a huge amount towards its construction. Defendant No.15 will sustain irreparable loss, if injunction is granted, restraining him from enjoying the said gat number or construction on it. Admittedly, plaintiffs are also enjoying the suit properties in their possession about which no single word is stated by them. The relief of temporary injunction is an equitable relief. Hence, no temporary injunction can be granted against the defendants No.1, 12, 15, 19 and 23 from enjoying the suit properties. However, the suit properties are required to be preserved, till the final decision of this suit by way of an order of temporary injunction. Considering the above discussion, I hold that plaintiffs have partly succeeded in this application. Hence, I answer points No.1 to 3 as “partly yes”. and in an answer to point No.4, I pass following order:

### **ORDER**

1. The Application below Exh.5 is hereby partly allowed as under:
2. Both the plaintiffs and defendants are hereby temporarily restrained from making any permanent construction over the suit properties and alienating the suit properties (suit scheduled properties particularly described in para No.7-Schedule A to J of the plaint), by sale, mortgage, gift or exchange, till the final decision of this suit.

3. All the other reliefs claimed by the plaintiffs by way of temporary injunction application are rejected.
4. Costs in cause.

Date :31.01.2026.

Place: Vaduj.

(F. B. Baig)  
Jt. Civil Judge Senior Division,  
Vaduj.