

ORDER BELOW EXH. 05 IN R. C. S. NO. 58 OF 2021.
(Suhasini Chandrakant Gurav Vs. Vijay Ramchandra Deshmukhe and Others)

(Passed on 7th November, 2025)

01. This is an application moved by the plaintiff under Order 39, Rule 1 and 2 of the Code of Civil Procedure, 1908, to restrain the defendants Nos. 1 and 2 from disturbing her peaceful possession and not to create third-party interest in her 6 R area in land Gat No. 1690, situated at Mayani, Tal. Khatav, District – Satara, till the disposal of the instant suit. The plaintiff has filed a suit for a declaration and an injunction against the defendant Nos. 1 and 2. The plaintiff states that on 18.10.1995, she and her husband had purchased land admeasuring 6 R. (3 R. each) out of Gat No. 1690, situated at Mayani, Tal. Khatav, District – Satara, from one Balu Nivrutti Mali by two separate registered sale deeds for consideration of Rs. 15,000/-. Since the date of purchase, they have owned the purchased property. The husband of the plaintiff has constructed a house on a portion of the purchased land by him, which has been assigned house property No. 286 by the local Grampanchyat Mayani, Tal. Khatav, District – Satara. The plaintiff further states that her husband died on 11.05.2020, leaving behind the plaintiff and three daughters as his legal heirs. The plaintiff has erected fencing around her open plot portion of the purchase land. (Hereinafter, above said described property will be referred to as “the suit property”).

02. The plaintiff further states that on 22.02.2021, when she had gone to meet her daughter, the defendants took advantage of her absence and dismantled the said fencing. When the plaintiff went to ask the defendants, they asserted ownership over the suit property. They threatened the plaintiff not to return to the home. The plaintiff had approached to nearest police station but in vain.

She is very old, and the defendants are not law-abiding citizens. Hence, the plaintiff has filed an instant temporary injunction application not to disturb her possession and not to create a third-party interest in the suit property by the defendants.

03. The defendants appeared and filed their written statement cum say to the interim injunction application at Exh. 17. They have denied the plaintiffs' claim. They submit that the plaintiff has shown a false cause of action in his suit. They further state that they are the owner of the property under their own sale deeds dated 03.11.1995, area 6 R. in land Gat No. 1690, situated at Mayani, Tal. Khatav, District – Satara, and they have got possession of the purchased land on the same day of execution of the sale deed. They have erected the compound around the said area. Since then, their name has been entered in the revenue record, and they own the purchased area. The plaintiff is not concerned with their purchased portion of land, Gat No. 1690. They submit that the prima facie case and balance of convenience lie in their favour. If the injunction is granted, the defendants will suffer irreparable loss. They prayed to reject the application.

04. Heard Ld. Advocate H. D. Katkar for the plaintiff and Ld. Advocate Shri. V. V. Methavade for defendants at length.

05. After considering the rival contentions raised by both parties, the following points arise for my determination, and my findings with reasons stated thereon are as follows.

	<u>POINTS</u>	<u>FINDINGS</u>
1.	Whether the plaintiff makes out a prima facie case in her favour?	Yes.

2.	Whether the balance of convenience lie in favour of the plaintiff?	Yes.
3.	Whether the plaintiff will suffer irreparable loss if the injunction is not granted in her favour?	Yes.
4.	What order?	As per the final order.

REASONS

AS TO POINTS NO.1 TO 3.

06. The points No. 1 to 3 are interlinked with each other; therefore, to avoid repetition of facts and documents, I discuss them together.

07. The plaintiffs claim that she and her husband had purchased land admeasuring 6 R. (3 R. each) from one Balu Nivrutti Mali by two separate registered sale deeds dated 18.10.1995, out of land Gat No. 1690 situated at Mayani, Tal. Khatav, District – Satara. The plaintiffs state that since the date of purchase, they have owned the purchased area of land, Gat No. 1690. The plaintiff has produced both original sale deeds along with 7/12 extracts and form No. 8A, along with a list of documents (Exh 3), which shows her name and possession in the revenue record of the suit property.

08. The plaintiff further states that her husband had constructed the house in a portion of the land which was purchased by him, which has been assessed by the Grampanchayat Mayani under house property bearing No. 286, and the remaining portion is an open plot surrounded by the fencing. All these documents prima facie support the plaintiff's title and possession. The defendants, on the other hand, rely on their own sale deeds dated 03.11.1995

executed by the same vendor, showing the purchase of 06 R. area in land Gat No. 1690. However, from plain reading of those sale deeds, it appears that their purchased lands lie in a different portion of the same Gat number and are not shown to be adjacent to the plaintiff's property.

09. On minute perusal of the record, it appears that the defendants have not produced any documents to show that the land purchased by the plaintiff and her husband falls within their ownership or that the plaintiff has encroached upon their property. On the contrary, the plaintiff's sale deeds and revenue record show her lawful possession over the purchased area extends to 06 R. in land Gat No. 1690. Therefore, a prima facie case exists in favour of the plaintiff for the protection of her possession.

10. The plaintiff has produced sale deeds and 7/12 extracts as well as an 8-A extract of her house property on the record, which shows her possession over the purchased area in land Gat No. 1690. She claimed that she erected fencing around the open plot, which was allegedly dismantled by the defendants during her absence. If the defendants are not restrained, there is a likelihood of further obstruction or interference in the plaintiff's peaceful possession, and therefore, it causes hardship to the plaintiff. On the other hand, if the injunction is granted, no irreparable loss would be caused to the defendants.

11. The plaintiff is a widow and an aged lady having no son and three married daughters. She is residing in the house situated on the suit property. If the defendants are not restrained and are permitted to interfere, she may lose possession, which can not be compensated in terms of money. The nature of injury apprehended

by the plaintiff, unlawful obstruction to her possession and dismantling of fencing constitute irreparable loss in law, as possession once lost may not be easily restored.

12. Considering the documents and circumstances, it appears that the plaintiff has shown a prima facie case in her favour. The balance of convenience also tilts in her favour as she owns the suit property, and she would suffer irreparable loss if the injunction is not granted. Hence, considering the above reason, I proceed to pass the following order.

ORDER

1. Application Exh 5 is allowed.
2. The defendants, their servants, agents or any person claiming through them are restrained by temporary injunction from obstructing the plaintiff's peaceful possession and enjoyment of the suit property land Gat No. 1690, situated at Mayani, Tal. Khatav, District Satara, till the decision of this suit or till further order.
3. Costs of the application shall be costs in the cause.

(Salim P. Sayyed)

Date: 07.11.2025

2nd Jt. Civil Judge, Jr. Division, Vaduj.