

**Order below Exh.05 in RCS No.75/2024**  
**(Manoj Churi Vs. Mukund Sharma)**

The main suit is filed for permanent injunction. The present application (Exh. 5) is preferred praying that till the final adjudication of the suit, the Defendants themselves or through any other person, shall not obstruct the air and light due to the illegal construction being carried out in plot No. 6-A and also be restrained from causing harm to the privacy of the bedroom of the Plaintiff due to the said construction. The said relief is sought against the Defendant and any such contractor, worker, servants working for the Defendant. Affidavit in support of the present application is filed. The present application is vehemently opposed by Defendants by way of say.

2] Heard learned Advocates for both sides. Perused record.

3] In an application for temporary injunction, the Court has to consider if *prima facie* case is made out and the irreparable injury and balance of convenience are made out. Present application filed by Plaintiff is considered under Order 39 Rule 1 of the Code of Civil Procedure (C.P.C.). The said provisions are reproduced hereinbelow for reference:-

Rule 1 Order XXXIX of Code of Civil Procedure 1908

*"Cases in which temporary injunction may be granted"*

*Where in any suit it is proved by affidavit or otherwise –*

*(a) that any property in dispute in a suit is in danger of being wasted, damaged or alienated by any party to the suit, or*

*wrongfully sold in execution of a decree, or*

*(b) that the defendant threatens, or intends, to remove or dispose of his property with a view to defrauding his creditors,*

*(c) that the defendant threatens to dispossess, the plaintiff or otherwise cause injury to the plaintiff in relation to any property in dispute in the suit, the Court may by order grant a temporary injunction to restrain such act, or make such other order for the purpose of staying and preventing the wasting, damaging, alienation, sale, removal or disposition of the property or dispossession of the plaintiff, or otherwise causing injury to the plaintiff in relation to any property in dispute in the suit as the Court thinks fit, until the disposal of the suit or until further orders.”*

4] A plethora of documents are submitted on record. Eventually, both sides have challenged the legality of the structure of the other side. It is also brought out that earlier an undertaking was given to the Court that the Defendant shall not continue with the construction over second floor without valid permission (Exh. 16). Accordingly, status quo (Exh. 15) was granted by the learned Predecessor. Thereafter, photographs were submitted alongwith Exh. 21 and 25 which shows that construction continued to some extent over the second floor. It also appears that, admittedly the Defendant does not have permission for further construction of second floor and has made an application for the same before the concerned authority, but permission is not yet granted. *Vide* photographs submitted at Exh. 38, it is also brought out that solar panel is being set up and tarpaulin is placed over certain structure made on the second floor. In these circumstances, it would be appropriate to grant interim

relief at least till such permission is brought on record.

5] In these circumstances,

**ORDER**

1. Application is partly allowed.
2. Defendant is hereby restrained from undertaking any construction over the second floor of the structure in plot 6-A regarding which undertaking (Exh. 16) is given, till necessary and valid permission is granted by the concerned authority.
3. Costs in cause.

Date :- 24/12/2025

Place :- Palghar

(Smt. P.S.G. Chalkar )

2<sup>nd</sup> Jt. Civil Judge Junior Division,  
Palghar.

**CERTIFICATE**

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

Name of Stenographer	--	Prathamesh D. Patane,
Court	--	2 <sup>nd</sup> Jt.CJJD & JMFC, Palghar
Date	--	24.12.2025
Order signed by the Presiding Officer on	--	24.12.2025
Order uploaded on	--	24.12.2025