

ORDER BELOW EXH. No.5 in RCS No. 29/2026

(Shivchand Uttam Rathod and another Vs. Kashinath Maroti Mahalle)

1. Heard learned Advocate for the plaintiffs Shri M. A. Khan. Perused the plaint, application at Exh.5 for temporary injunction, affidavit in support thereof, and documents placed on record.
2. The present suit is filed by the plaintiffs for declaration and perpetual injunction in respect of agricultural lands bearing Gat Nos. 14 and 60. By the present application, the plaintiffs have prayed for grant of ad-interim ex-parte temporary injunction restraining the defendant from disturbing their possession over the suit lands, and using or creating any way on the eastern boundary of Gat No.14 or near the boundary of Gat Nos. 14 and 60.
3. On perusal of the documents produced by the plaintiffs, it reveals that prior proceedings were initiated under Section 5 of the Mamlatdars' Courts Act, 1906 before the Tahsildar, Mangrulpir. The Tahsildar, by order dated 20/02/2026, allowed the application filed by the present defendant and directed that the alleged way be kept open, holding that it was an existing customary pathway used by the defendant.
4. It further appears that the present plaintiffs have preferred a revision under Section 23 of the said Act before the Sub-Divisional Officer, Mangrulpir. Initially, a stay was granted, however, subsequently, by letter dated 14/03/2026, the said stay came to be vacated and directions were issued to implement the order of the Tahsildar.
5. The plaintiffs have relied upon various judicial pronouncements of the Hon'ble High Court to contend that the proceedings under the Mamlatdars' Courts Act are summary in nature, the orders passed therein are not final, and the Civil Court has independent jurisdiction to adjudicate the rights of the parties and grant injunction.

There is no dispute about the settled legal position that the jurisdiction of the Civil Court is not barred and that it can examine the rights of the parties independently.

6. However, at this stage, it is necessary to note that the Tahsildar has already passed an order recognizing the existence of the way based on spot inspection and evidence, the revisional authority has vacated the interim stay, thereby permitting implementation of the said order, the relief sought by the plaintiffs, if granted ex-parte, would directly operate against an existing order of the competent revenue authority.

7. It is a settled principle of law that grant of ex-parte ad-interim injunction is an exception and not a rule. Before granting such relief, the Court must be satisfied about existence of a strong prima facie case, urgency and irreparable loss, and balance of convenience.

8. In the present case, considering the existence of prior orders passed by the revenue authorities and the nature of dispute relating to alleged right of way, this Court is of the opinion that the defendant must be heard before granting any interim relief, as the matter involves disputed questions of fact requiring proper adjudication.

9. Therefore, at this stage, this Court is not inclined to grant ex-parte ad-interim injunction without giving an opportunity of hearing to the defendant. The application deserves to be considered after appearance and say of the defendant. Hence, I proceed to pass following order.

ORDER

1. Issue show cause notice to the defendant on application Exh.5 as to why the application for temporary injunction should not be allowed.
2. The application at Exh.5 be kept for hearing, returnable on 25/03/2026.

3. Special Bailiff and emergent process are allowed.
4. The plaintiffs shall take necessary steps for service of notice forthwith.

Dated 17/03/2026

(Khwaja C. Kalal)
Jt. C. J. J. D., Mangrulpir
Tal. Mangrulpir, Dist. Washim.

CERTIFICATE

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

Name of Court	:-	Jt. Civil Judge (Jr.Dn.) and J.M.F.C., Mangrulpir, Dist. Washim.
Presiding Officer	:-	Khwaja C. Kalal
Order uploaded by	:-	Shri. S. S. Rathod (Jr. Clerk)
Date of Order	:-	17/03/2026
Judgment/Order signed by the presiding officer on	:-	17/03/2026
Judgment/Order uploaded on	:-	18/03/2026