

MHWS100012452018



Received on	07	09	2018
Registered on	07	09	2018
Decided on	16	03	2026
Duration	Years	Months	Days
	07	06	09

**IN THE COURT OF CIVIL JUDGE JUNIOR DIVISION, MALEGAON**  
**(Presided over by Sheaikh Mohmad Wasim Akram)**

**Regular Civil Suit No. 63/2018**

**Exh.No. 15**

**Dilip Trimbakrao Ghuge**

Aged : 55 Years, Occ : Canteen,  
R/o. In front of Panchayat Samiti, Malegaon,  
Tal. Malegaon, Dist. Washim.

**Plaintiff**

**VERSUS**

**Block Development Officer,**  
**Panchayat Samiti, Malegaon,**  
Tal. Malegaon, Dist. Washim.

**Defendant**

**CLAIM : Suit for Perpetual Injunction.**

Mr. J. G. Lad, Advocate for the Plaintiff.

Mr. V. R. Lahoti, Advocate for the defendant.

**JUDGMENT**

(Delivered on 16/03/2026)

The plaintiff has filed a present suit for perpetual injunction.

2. Brief contentions of the plaint as follows;

It is contentions of the plaintiff that since 20-22 years he is running a canteen in the premises of Panchayat Samiti, Malegaon, accordingly, he was deposited an amount rupees 30,000/- (Thirty Thousand Only) and regularly paid monthly rent.

3. The plaintiff further contended that in the month of January-2018 Office of Panchayat Samiti, Malegaon shifted in new building, in said new building there is no space available for canteen, therefore, since 29/08/2018 he is running said canteen in an open space which is in front of Panchayat Samiti, Malegaon. The plaintiff is running his canteen in 8 x 10 ft. shed in front of Panchayat Samiti, Malegaon.

4. The plaintiff further contended that his brother, namely, Baban Trimbakrao Ghuge promoted from peon to clerk in Panchayat Samiti, Malegaon, therefore, he has using his undue influence and trying to damage said canteen shed. Accordingly, on 29/08/2018 vide outward No.2983/2018 the defendant issued a notice to the plaintiff to vacate said canteen. Later on, 05/09/2018 vide outward No.3055/2018 the defendant again issued a notice to the plaintiff to vacate said canteen.

5. The plaintiff further contended that he is running said canteen since 20-22 years. The defendant is trying to damage said canteen. Therefore, the plaintiff filed the present suit against the defendant for perpetual injunction.

6. As per an order passed below Exh.1 dated 07/08/2023 the present suit is proceeded without written statement of the defendant.

7. On the basis of contentions of the plaintiff, I framed following points and I recorded my findings there on as under for the reasons given below.

Sr. No.	POINTS	FINDINGS
1	Does the plaintiff proves that he is in possession of said canteen ?	No.
2	Does the plaintiff proves that the defendant is trying to damage said canteen ?	No.
3	Does the plaintiff is entitled for perpetual injunction, as prayed ?	No.

4	What order and decree ?	Suit is dismissed with costs.
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### REASONS

8. As per an order passed below Exh.1 dated 15/12/2025 an evidence side of the plaintiff was closed because he failed to lead an evidence.

9. Perused the record. After perusal of record it appears that the plaintiff filed several documents on record. After perusal of entire record of the present suit it is clear that he has not referred these documents to any witness during evidence and also not proved.

10. The defendant filed an evidence close pursis below Exh.14 dated 27/01/2026.

11. The defendant has not filed any documents on record.

12. Heard learned Adv. Mr. J. G. Lad for the plaintiff. Also heard learned Adv. Mr. V. R. Lahoti for the defendant.

### AS TO POINT NOS. 1 TO 3 :-

13. The plaintiff contended that he is running said canteen since 20-22 years. The plaintiff further contended that the defendant is trying to damage said canteen, therefore, the plaintiff filed the present suit against the defendant for perpetual injunction.

14. The advocate Mr. J. G. Lad for the plaintiff argued that the plaintiff is running said canteen since 20-22 years. The advocate further argued that the defendant is trying to damage said canteen. Therefore, the advocate prayed to grant a perpetual injunction in favour of the plaintiff. On the contrary, the advocate Mr. V. R. Lahoti for the defendant argued that the defendant is not

damaging said canteen. Therefore, the advocate prayed to dismiss the present suit.

15. It is pertinent to note here that before moving towards evidence on record it is necessary to reproduce section 101 and 102 of the Indian Evidence Act, 1872 which are as follows :

***Section 101 :- Burden of proof** – Whoever desires any Court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts, must prove that those facts exists.*

*When a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person.*

***Section 102 :- On whom burden of proof lies** – The burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side.*

16. It is pertinent to note here that as per section 101 and 102 of the Indian Evidence Act, 1872 burden is on the plaintiff to prove that he is running said canteen since 20-22 years and the defendant is trying to damage said canteen.

17. Perused the record. After perusal of record it appears that since 07/08/2023 the plaintiff failed to lead an evidence, therefore, as per an order passed below Exh.1 dated 15/12/2025 an evidence side of the plaintiff was closed.

18. It is pertinent to note here that as discussed above it is clear that on 15/12/2025 an evidence side of the plaintiff was closed, therefore, the plaintiff failed to prove his case. Furthermore, the plaintiff failed to prove that he is running said canteen since 20-22 years. The plaintiff also failed to prove that the defendant is trying to damage said canteen. Therefore, the plaintiff is not entitled for relief of perpetual injunction as prayed. Hence, I answer to point Nos. 1 to 3 in negative.

**AS TO POINT NO. 04 :-**

19. Considering all documentary and oral evidence adduced before me as well as legal position as discussed above in point Nos.1 to 3 suit of the plaintiff is deserves to be dismissed with costs because the defendant suffers since 2018 because of the suit filled by the plaintiff. Accordingly, I proceed to pass the following order :-

**ORDER**

1. The suit is dismissed with costs.
2. Decree be drawn up accordingly.

(Pronounced and dictated in open court)

Date : 16/03/2026

Mohmad Wasim Akram  
s/o Mohmad Jalal Sheaikh  
Civil Judge Junior Division, Malegaon.

**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	C. R. Lande (Grade III )
Name of Court	<b>Shri. M. W. A. M. J. Sheaikh,</b> C.J.J.D. & J.M.F.C., (Court No.1), Malegaon, Distt. Washim.
Date of Dictation	16/03/2026
Judgment/Order signed by the PO on	16/03/2026
Judgment /Order uploaded on	16/03/2026