

MHWS1000015262022

R.C.S. 91/2022

Gajanan Vrs. Shrikant

**COMMON ORDER BELOW EXH.05 AND 15**

(Passed on 29/07/2025)

**Brief contents of the original plaintiff of Exh.05 as follows :-**

The present application filed by the original plaintiff for temporary injunction as per Order 39 Rule 1 and 2 of the Code of Civil Procedure, 1908, against the original defendant for not to disturb his possession of Gat no. 257 admeasuring area 1 H 23 R agricultural land situated at Dudhala, Tq. Malegaon, Dist. Washim till the final disposal of the suit. (Hereinafter, it is called as 'the suit property').

2. It is contentions of the original plaintiff that on 13.03.2019 he purchased the suit property from deceased Eknath Mahadaji Lade (father of the original defendant) by way of registered sale deed bearing no.543/2019, accordingly, mutation has been taken in revenue record vide mutation entry no.862. Accordingly, the original plaintiff is in possession of the suit property.

3. It is further contentions of the original plaintiff that on 26.09.2022 at about 02.00 pm he went on the suit property, at that time the original defendant obstructed and abused him, therefore, he filed a report in police station, Shirpur, accordingly, NCR No.466/2022 was registered.

4. It is further contentions of the original plaintiff that he is an owner and possessor of the suit property. The original defendant does not have any right, title or interest over the suit property. The original defendant is trying to disturb a peaceful possession of the original plaintiff over the suit property. Therefore, the original plaintiff would have suffer irreparable loss if he has been dispossessed from the suit property. Therefore, the original plaintiff filed the present application against the original defendant for not to disturb his possession of the suit property till the final disposal of the suit.

**Say of the original defendant to Exh.05 as follows :-**

5. The original defendant appeared and filed his say to present application below Exh.12 dated 21.10.2022, wherein, he denied all the contents of the present application.

6. The original defendant in his say specially contended that boundaries of the suit property is not proper. The original plaintiff is not an owner and possessor of the suit property.

7. The original defendant in his say further specially contended that in the year of 2019 he obtained hand loan of rupees 2,00,000/- (Two Lakh Only) from the original plaintiff. The original plaintiff was not having licence of money lending, therefore, on 13.03.2019 deceased Eknath executed a nominal registered sale deed in respect of the suit property in favour of the original plaintiff. Neither the original plaintiff nor the original defendant acted upon said sale deed. On 16.09.2020 the original defendant transferred an amount of rupees 3,00,000/- (Three Lakh Only) from the saving account No.2013992 of deceased Eknath of the Akola District Central Bank, Branch- Shirpur in the account of Kavita Gajanan Kavhar (wife of the original plaintiff) for repayment of said hand loan. On 09.09.2020 the original defendant transferred an amount of rupees 10,00,000/- (Ten Lakh Only) from his saving account No.095122 of the Akola District Central Bank, Branch-Shirpur in the account of the original plaintiff for repayment of said hand loan. The original plaintiff and his wife is doing illegal money lending business. The original plaintiff is not in possession of the suit property.

8. The original defendant further contended that the present application is not tenable in the eyes of law. The original defendant would suffer irreparable loss if temporary injunction granted to the original plaintiff. Moreover, the original defendant further contended that the original plaintiff filed the present suit as well as present application illegally against him. Hence, the original defendant prayed for rejection of the present application.

**Brief contents of the original defendant of Exh.15 as follows :-**

9. The present application filed by the original defendant for temporary injunction as per Order 39 Rule 1 and 2 of the Code of Civil Procedure, 1908, against the original plaintiff for not to disturb his possession of Gat no. 257 admeasuring area 1 H 23 R agricultural land situated at Dudhala, Tq. Malegaon, Dist. Washim till the final disposal of the suit. (Hereinafter, it is called as 'the suit property').

10. It is contentions of the original defendant that the original plaintiff and his wife is doing illegal money lending business. In the year of 2019 he obtained hand loan of rupees 2,00,000/- (Two Lakh Only) from the original plaintiff. The original plaintiff was not having licence of money lending, therefore, on 13.03.2019 deceased Eknath executed a nominal registered sale deed in respect of the suit property in favour of the original plaintiff. Neither the original plaintiff nor the original defendant acted upon said sale deed. On 16.09.2020 the original defendant transferred an amount of rupees 3,00,000/- (Three Lakh Only) from the saving account No.2013992 of deceased Eknath of the Akola District Central Bank, Branch- Shirpur in the account of Kavita Gajanan Kavhar (wife of the original plaintiff) for repayment of said hand loan. On 09.09.2020 the original defendant transferred an amount of rupees 10,00,000/- (Ten Lakh Only) from his saving account No.095122 of the Akola District Central Bank, Branch-Shirpur in the account of the original plaintiff for repayment of said hand loan. The original defendant paid total amount of rupees 13,00,000/- (Thirteen Lakh Only) to the original plaintiff, even after receiving said amount the original plaintiff has not canceled said sale deed.

11. It is further contentions of the original defendant that he is in possession of the suit property. The original plaintiff is not in possession of suit property. The original plaintiff does not have any right, title or interest over the suit property. The original plaintiff is trying to disturb a peaceful possession of the original defendant over the suit property. Therefore, the original defendant would have suffer irreparable loss if he has been

dispossessed from the suit property. Therefore, the original defendant filed the present application against the original plaintiff for not to disturb his possession of the suit property till the final disposal of the suit.

**Say of the original plaintiff to Exh.15 as follows :-**

12. The original plaintiff filed his say to present application below Exh.19 dated 05.12.2022, wherein, he denied all the contents of the present application.

13. The original plaintiff in his say specially contended that on 13.03.2019 he purchased the suit property from deceased Eknath Mahadaji Lade (father of the original defendant) by way of registered sale deed bearing no.543/2019, accordingly, mutation has been taken in revenue record vide mutation entry no.862. Accordingly, the original plaintiff is in possession of the suit property.

14. The original plaintiff further contended that the original defendant is not in possession of the suit property. The present application is not tenable in the eyes of law. The original plaintiff would suffer irreparable loss if temporary injunction granted to the original defendant. Moreover, the original plaintiff further contended that the original defendant filed the counter claim as well as present application illegally against him. Hence, the original plaintiff prayed for rejection of the present application.

15. In view of rival contentions of both parties following points arises for my determination, to which I recorded my findings thereon as under for the reasons given below:-

**Points for temporary injunction application at Exh.05 as follows :-**

Sr. No.	Points	Findings
1	Does the original plaintiff proves the prima facie case in his favour ?	Yes
2	Does the original plaintiff proves balance of convenience lies in his favour ?	Yes

3	Does the original plaintiff proves that he would sustain irreparable loss if temporary injunction is refused?	Yes
4	What order ?	Application is Allowed.

**Points for temporary injunction application at Exh.15 as follows :-**

Sr. No.	Points	Findings
1	Does the original defendant proves the prima facie case in his favour ?	No
2	Does the original defendant proves balance of convenience lies in his favour ?	No
3	Does the original defendant proves that he would sustain irreparable loss if temporary injunction is refused?	No
4	What order ?	Application is Rejected.

**REASONS**

16. Heard learned advocate Mr. S. S. Magar for the original plaintiff. Also heard learned advocate Mr. R. S. Joshi for the original defendant.

**As to Point No. 1 of Exh.05 and 15 :-**

17. Now coming towards legal position, the present application of temporary injunction filed under Order 39 Rule 1 and 2 of the Code of Civil Procedure, 1908, which is as follows :-

**Order 39 Rule 1 and 2 of the Code of Civil Procedure, 1908 :-**

**Rule -1 :- 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 a 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, alienating, 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.*

**Rule -2 :- Injunction to restrain repetition or continuance of breach :-**

*(1) in any suit for restraining the defendant from committing a breach of contract or other injury of any kind, whether compensation is claimed in the suit or not, the plaintiff may, at any time after the commencement of the suit, and either before or after judgment, apply to the court for a temporary injunction to restrain the defendant from committing a breach of contract or injury complained of, or any breach of contract or injury of a like kind arising out of the same contract or relating to the same property or right.*

*(2) the court may by order grant such injunction, on such terms as to the duration of the injunction, keeping an account, giving security, or otherwise, as the court thinks fit.*

18. For temporary injunction applications filed under Order 39 Rule 1 and 2, said applications are also related to legal provisions of section 36 and 37 of the Specific Relief Act, 1963, which are as follows :-

**The Specific Relief Act, 1963 :-**

**Section 36 :- Preventive Relief How Granted :-**

*“Preventive relief is granted at the discretion of the court by injunction, temporary or perpetual”.*

**Section 37 :- Temporary and Perpetual Injunctions :-**

*“(1) Temporary injunctions are such as are to continue until a specified time, or until the further order of the court, and they may be granted at any stage of the suit, and are regulated by the Code of Civil Procedure, 1908.*

*“(2) A perpetual injunction can only be granted by the decree made at the hearing and upon the merits of the suit, the defendant is thereby perpetually enjoined from the assertion of a right, or from the commission of an act, which would be contrary to the rights of the plaintiff.”*

19. The court may grant temporary injunction to any party if he proved that property in dispute in a suit is in danger of being wasted, damage, alienation, sale, removal, dispossession and dispose or any other way. Before issuing a temporary injunction pending disposal of a suit, the applicant has to make out, firstly that he has got a prima-facie title to properties. Secondly, the applicant must establish that he will suffer irreparable injury which is a matter which cannot be adequately compensated for by damages. Thirdly, the applicant must prove that the balance of convenience is in his favour, who is likely to suffer substantial mischief if the injunction is refused when compared to the mischief which might be caused to the non-applicant if the injunction is granted. Fourthly, the status quo must be maintained. The court has take into consideration all these points while granting a temporary injunction.

20. Now, considering this legal position present applications needs to be decided. The original plaintiff filed the present suit for perpetual injunction. Furthermore, the original defendant filed the counter claim for declaration and perpetual injunction. By deciding these injunction applications I am not deciding an ownership of the suit property. Now coming towards these applications, it is contentions of the original plaintiff that he is an owner and possessor of the suit property. On the contrary, the original defendant contended that he is in possession of the suit property.

21. The advocate Mr. S. S. Magar for the original plaintiff argued that on 13.03.2019 the original plaintiff purchased the suit property from deceased Eknath Mahadaji Lade (father of the original defendant) by way of registered sale deed bearing no.543/2019. The original plaintiff is an owner and possessor of the suit property. The original defendant is trying to disturb a peaceful possession of the original plaintiff over the suit property, therefore, the original plaintiff would have suffer irreparable loss if he has been dispossessed from the suit property. Therefore, the advocate prayed to grant temporary injunction in favour of the original plaintiff.

22. The advocate Mr. R. S. Joshi for the original defendant argued that in the year 2019 the original defendant obtained hand loan of rupees 2,00,000/- (Two Lakh Only) from the original plaintiff. The original plaintiff was not having licence of money lending, therefore, on 13.03.2019 deceased Eknath executed a nominal registered sale deed in respect of the suit property in favour of the original plaintiff. Neither the original plaintiff nor the original defendant acted upon said sale deed. On 16.09.2020 the original defendant transferred an amount of rupees 3,00,000/- (Three Lakh Only) from the saving account No.2013992 of deceased Eknath of the Akola District Central Bank, Branch- Shirpur in the account of Kavita Gajanan Kavhar (wife of the original plaintiff) for repayment of said hand loan. On 09.09.2020 the original defendant transferred an amount of rupees 10,00,000/- (Ten Lakh Only) from his saving account No.095122 of the Akola District Central Bank, Branch- Shirpur in the account of the original plaintiff for repayment of said hand loan amount. The original defendant paid total amount of rupees 13,00,000/- (Thirteen Lakh Only) to the original plaintiff, even after receiving said amount the original plaintiff has not cancelled said sale deed. The original defendant is in possession of the suit property. The original plaintiff is trying to disturb a peaceful possession of the original defendant over the suit property, therefore, the original defendant would have suffer irreparable loss if he has been dispossessed from the suit

property. Therefore, the advocate prayed to grant temporary injunction in favour of the original defendant.

23. An advocate Mr. S. S. Magar for the original plaintiff also relied on following case laws :-

***1. In Smt. Sarlabai Vs. Dinesh Premsingh Gahalod & Ors. Writ Petition No.2015/2021, decided on 03/02/2023, wherein the Hon'ble Bombay High Court, Bench at Nagpur held that Maharashtra Money-Lending (Regulation) Act, 2014, Section 16 Sale deed dated 30.06.2016 in favour of the respondents presumed valid- Clause 4 of sale deed indicates delivery of possession- Mutation in Record of Rights following sale deed and lack of objection by petitioner further supports possession by respondents- Certificate in Form 7-B under Rule 31 of the Maharashtra Land Revenue Record of Rights and Registers (Preparation and Maintenance) Rules, 1971 found unreliable due to procedural lapses.***

***2. In Shankar Apparao Mate and Ors Vs. Jagganath Jayram Shinde & Ors. Writ Petition No.10916/2023, decided on 07/08/2024, wherein the Hon'ble Bombay High Court held that Money Lending Act, Section 18- Inquiry under Section 18- Mandatory conditions for invalidating sale deeds- Held, twin conditions of debtor-creditor relationship and possession as security for loan must be satisfied- mere possession of re conveyance agreement or recital in sale deed insufficient.***

24. An advocate Mr. R. S. Joshi for the original defendant also relied on following case laws :-

***1. In K. Gopi Vs. The Sub-Registrar, Civil Appeal No.3954/2025 decided on 07/04/2025, AIR (SC)-2025-0-1800, wherein, the Hon'ble Supreme Court of India held that "The execution and registration of a document have the effect of***

*transferring only those rights, if any, that the executant possesses. If the executant has no right, title or interest in the property, the registered document cannot effect any transfer".*

**2. In *Kamlesh Rajendra Betala Vs. The State of Maharashtra & Ors, Writ Petition No.1072/2024, decided on 18/03/2024, wherein, the Hon'ble Bombay High Court* held that "Moreover, it is well settled that the entries made in revenue record are only for fiscal purposes which neither create nor extinguish rights of person in immovable property. Therefore, proceeding under the provisions of the Maharashtra Land Revenue Code, 1966 cannot be equated with the proceedings arising out of judgment and decree passed by the Civil Court. Hence, the impugned order cannot be sustained".**

**3. In *T. V. Ramakrishna Reddy Vs. M. Mallappa, Civil Appeal No.5577/2021 decided on 07/09/2021, LAWS (SC)-2021-9-12, wherein, the Hon'ble Supreme Court of India* held that "It could thus be seen that this Court in unequivocal terms has held that where the plaintiff's title is not in dispute or under a cloud, a suit for injunction could be decided with reference to the finding on possession. It has been clearly held that if the matter involves complicated questions of fact and law relating to title, the court will relegate the parties to the remedy by way of comprehensive suit declaration of title, instead of deciding the issue in a suit for mere injunction.**

*No doubt, this Court has held that where there are necessary pleadings regarding title and appropriate issue relating to title on which parties lead evidence, if the matter involved is simple and straightforward, the court may decide upon the issue regarding title, even in a suit for injunction. However, it has been held that such cases are the exception to the normal rule that question of title will not be decided in suits for injunction".*

**4. In *Anathula Sudhakar Vs. P. Buchi Reddy (Dead) By LRs and Others, Civil Appeal No.6191/2021, decided on 25/03/2008, 2008 AIR (SC) 2033, wherein, the Hon'ble Supreme Court of India held that "As a suit for injunction simpliciter is concerned only with possession, normally the issue of title will not be directly and substantially in issue. The prayer for injunction will be decided with reference to the finding on possession. But in cases where de jure possession has to be established on the basis of title to the property, as in the case of vacant sites, the issue of title may directly and substantially arise for consideration, as without a finding thereon, it will not be possible to decide the issue of possession".***

25. Perused the record. After perusal of record it appears that the original plaintiff filed xerox copy of sale deed at serial No.1 along with list of document below Exh.3. After perusal of xerox copy of said sale deed it prima-facie appears that on 13.03.2019 the original plaintiff Gajanan purchased the suit property from deceased Eknath Mahadaji Lade for a consideration of rupees 3,95,000/- (Three Lakh Ninty Five Thousand Only), accordingly, possession has been given to the original plaintiff. After perusal of xerox copy of said sale deed it prima-facie appears that it is not mentioned in it that was executed nominal in favour of the original plaintiff.

26. The original plaintiff also filed a certified copy of Mutation Entry No.862 at serial No.2 along with list of document below Exh.3. After perusal of certified copy of Mutation Entry it prima-facie appears that on the basis of sale deed bearing No.543/2019 dated 13.03.2019 name of the original plaintiff Gajanan mutated over the suit property.

27. The original plaintiff also filed a certified copy of 7/12 extract of the suit property at serial No.3 along with list of document below Exh.3. After perusal of said certified copy of 7/12 extract it prima-facie appears

that it is of the year 2019. After perusal of said certified copy of 7/12 extract it prima-facie appears that it is in the name of the original plaintiff Gajanan and in respect of the suit property.

28. The original plaintiff also filed a certified copy of 7/12 extract of the suit property at serial No.4 along with list of document below Exh.3. After perusal of said certified copy of 7/12 extract it prima-facie appears that it is of the year 2022. After perusal of said certified copy of 7/12 extract it prima-facie appears that it is in the name of the original plaintiff Gajanan and in respect of the suit property.

29. The original plaintiff also filed a certified copy of Form No.8-A at serial No.5 along with list of document below Exh.3. After perusal of said certified copy of Form No.8-A it prima-facie appears that it is of the year 2018-19 in respect of suit property and in the name of the original plaintiff Gajanan.

30. The original plaintiff also filed a certified copy of Form No.8-A at serial No.6 along with list of document below Exh.3. After perusal of said certified copy of Form No.8-A it prima-facie appears that it is of the year 2021-22 in respect of suit property and in the name of the original plaintiff Gajanan.

31. The original plaintiff also filed a xerox copy of NCR No.466/2022 dated 26.09.2022 at serial No.7 along with list of document below Exh.3. After perusal of xerox copy said NCR it prima-facie appears that on 26.09.2022 the original plaintiff filed the report against the original defendant Shrikant @ Balu in police station, Shirpur, accordingly, police filed NCR under section 504 and 506 of Indian Penal Code, 1860.

32. The original plaintiff also filed an affidavit of Laxman Vithoba Khanzode at serial No.8 along with list of document below Exh.3. Laxman in his affidavit submitted that on 13.03.2019 the original plaintiff Gajanan purchased the suit property from deceased Eknath Mahadaji Lade, accordingly, he is in possession of the suit property.

33. The original plaintiff also filed an affidavit of Vishnu Kisan Kavhar at serial No.9 along with list of document below Exh.3. Vishnu in his affidavit submitted that on 13.03.2019 the original plaintiff Gajanan purchased the suit property from deceased Eknath Mahadaji Lade, accordingly, he is in possession of the suit property.

34. The original plaintiff also filed a certified copy of Form No.8-A at serial No.2 along with list of document below Exh.24. After perusal of said certified copy of Form No.8-A it prima-facie appears that it is of the year 2022-23 in respect of the suit property and in the name of the original plaintiff Gajanan.

35. The original plaintiff also filed a xerox copy of an order passed by the Assistant Registrar (Savkari), Washim dated 25.09.2024 at serial No.3 along with list of document below Exh.30. After perusal of xerox copy of said order it prima-facie appears that the case filed by the original defendant Shrikant against the original plaintiff Gajanan and Kavita in respect of cancellation of sale deed dated 13.03.2019 in respect of the suit property was rejected.

36. On the contrary, the original defendant filed a xerox copy of bank passbook of an account No.2013992 of the Akola District Central Cooperative Bank, Ltd., Akola, Branch-Shirpur of deceased Eknath at serial No.1 along with list of document below Exh.14. After perusal of xerox copy of said passbook it prima-facie appears that on 16.09.2020 an amount of rupees 3,00,000/- (Three Lakh Only) transferred to Kavita Gajanan Kavhar vide cheque No.028116.

37. The original defendant also filed a digital copy of 7/12 extract of Gat No.256 of village Dudhala at serial No.2 along with list of document below Exh.22. After perusal of said digital copy of 7/12 extract it prima-facie appears that it is of the year 2023. After perusal of said digital copy of 7/12 extract it prima-facie appears that it is in the name of Dingambar Chintaman Hule and Laxman Chintaman Hule.

38. The original defendant also filed a digital copy of 7/12 extract of Gat No.258 of village Dudhala at serial No.3 along with list of document below Exh.22. After perusal of said digital copy of 7/12 extract it prima-facie appears that it is of the year 2023. After perusal of said digital copy of 7/12 extract it prima-facie appears that it is in the name of Paramanand Gyanuji Kale.

39. It is pertinent to note here that in the present suit and counter claim property of Gat No.257 is in question. However, after perusal of digital copy of 7/12 extract at serial No.2 and 3 along with list document below Exh.22 are in respect of Gat No.256 and 258. Therefore, it is clear that said documents are not in respect of the suit property, therefore, said documents are not helpful to the original defendant.

40. The original defendant also filed an affidavit of Laxman Chintaman Hule at serial No.3 along with list of document below Exh.22. Laxman in his affidavit submitted that the original defendant Shrikant is in possession of the suit property since 30 years.

41. The original defendant also filed a copy of statement of extract of his account No.095122 of the Akola District Central Cooperative Bank, Ltd., Akola, Branch-Shirpur at serial No.4 along with list of document below Exh.22. After perusal of copy of said extract it prima-facie appears that on 09.09.2020 an amount of rupees 10,00,000/- (Ten Lakh Only) transferred to Gajanan Ramchandra.

42. The original defendant also filed a xerox copy of case filed before the District Deputy Registrar Co.op, Society, Washim at serial No.1 along with list of document below Exh.26. After perusal of said case it prima-facie appears that the original defendant Shrikant filed said case against the original plaintiff Gajanan and Kavita Kavhar for cancellation of sale deed dated 13.03.2019 in respect of the suit property as per Section 18 of the Maharashtra Money Lending Act, 2014.

43. The original defendant also filed a xerox copy of seizure Panchnama dated 09.02.2024 at serial No.1 along with list of document below Exh.28. After perusal of xerox copy of said seizure panchnama it prima-facie appears that said seizure panchnama prepared in respect of case filed by the original defendant Shrikant against the original plaintiff Gajanan and Kavita Kavhar.

44. It is pertinent to note here that after perusal of xerox copy of sale deed at serial no.1, certified copy of mutation entry at serial no.2, certified copy of 7/12 extract at serial no.3 and 4, certified copy of Form no.8-A at serial no.5 and 6, affidavit of Laxman and Vishnu at serial no.8 and 9, respectively, along with list of document at Exh.3 and certified copy of Form no.8-A at serial no.2 along with list of document at Exh.24 it prima facie appears that the original plaintiff is in possession of the suit property.

45. It is contentions of the original defendant that said sale deed executed in terms of money lending and nominal. Furthermore, for proving these contentions the original defendant filed xerox copy of bank passbook of deceased Eknath at serial no.1 along with list of document at Exh.14, statement of extract at serial no.4 along with list of document at Exh.22, xerox copy of case filed before the District Deputy Registrar Co.op, Society, Washim at serial No.1 along with list of document below Exh.26 and xerox copy of seizure Panchnama dated 09.02.2024 at serial No.1 along with list of document below Exh.28. On the contrary, the original plaintiff filed a xerox copy of an order passed by the Assistant Registrar (Savkari), Washim dated 25.09.2024 at serial No.3 along with list of document below Exh.30. After perusal of xerox copy of said order it prima-facie appears that the case filed by the original defendant Shrikant against the original plaintiff Gajanan and Kavita in respect of cancellation of sale deed dated 13.03.2019 in respect of the suit property was rejected. Therefore, it prima-facie appears that at this stage it cannot be stated that said sale deed executed in respect of money lending transaction and nominal. Furthermore, facts of Sarlabai (Cited Supra) and Dinesh Gahalod

(Cited Supra) are different, therefore, Sarlabai (Cited Supra) and Dinesh Gahalod (Cited Supra) are not helpful to the original plaintiff.

46. It is pertinent to note here that the original defendant has not filed any document on record which shows that he is in possession of the suit property. Furthermore, in absence of documents of possession an affidavit filed by the Laxman at serial no.3 along with list of document below Exh.22 filed by the original defendant is not helpful to him. Furthermore, in such facts and circumstance K. Gopi (Cited Supra), Kamlesh Betala (Cited Supra), T. V. Ramakrishna Reddy (Cited Supra) and Anathula Sudhakar (Cited Supra) filed by the original defendant is not helpful to him.

47. It is pertinent to note here that after perusal of xerox copy of sale deed at serial no.1, certified copy of mutation entry at serial no.2, certified copy of 7/12 extract at serial no.3 and 4, certified copy of Form no.8-A at serial no.5 and 6, affidavit of Laxman and Vishnu at serial no.8 and 9, respectively, along with list of document at Exh.3 and certified copy of Form no.8-A at serial no.2 along with list of document at Exh.24 it prima facie appears that the original plaintiff is in possession of the suit property. Therefore, as discussed above it prima-facie appears that the original plaintiff is in possession of the suit property and not the original defendant. Therefore, the original plaintiff proves prima-facie case in his favour. Furthermore, the original defendant failed to prove prima-facie case in his favour. Therefore, I recorded my findings as to point no.1 in respect of temporary injunction application at Exh.05 in an affirmative. Accordingly, I recorded my findings as to point no.1 in respect of temporary injunction application at Exh.15 in negative.

**As to Point No. 2 and 3 of Exh.05 and 15 :-**

48. As discussed in point no.1 of temporary injunction application at Exh.05 and 15 it prima-facie appears that the original plaintiff is in possession of the suit property and not the original defendant. The original

defendant is claiming that he is in possession of the suit property, therefore, claiming to be in possession of the suit property itself is an obstruction to the original plaintiff's possession over the suit property. Therefore, it prima-facie appears that the original defendant is obstructing possession of the original plaintiff over the suit property. Therefore, if possession of the original plaintiff over the suit property is not protected during pendency of the present suit then it would caused irreparable loss to him. Therefore, I hold that the original plaintiff prove balance of convenience in his favour and he would suffer irreparable loss if the injunction is refused. Therefore, possession of the original plaintiff needs to be protected from the original defendant by granting a relief of temporary injunction in favour of the original plaintiff. Furthermore, I hold that the original defendant failed to prove balance of convenience in his favour and he would suffer irreparable loss if the injunction is refused. Therefore, I recorded my findings as to point no.2 and 3 in respect of temporary injunction application at Exh.05 in an affirmative. Accordingly, I recorded my findings as to point no.2 and 3 in respect of temporary injunction application at Exh.15 in negative.

**As to Point No. 4 of Exh.05 and 15 :-**

49. Considering, all the legal principles required for granting the temporary injunction and as to findings given to point no. 1 to 3 of temporary injunction application at Exh.05 and 15, I hold that the original plaintiff is entitled to the relief of temporary injunction and not the original defendant. Therefore, I proceed to pass the following order.

**ORDER**

1. Temporary injunction application at Exh. 5 is allowed.
2. The original defendant or his agents, servants and any other persons on his behalf is hereby restrained from interfering and disturbing possession of the original plaintiff over the suit property till the final disposal of the present suit.

3. Temporary injunction application at Exh. 15 is rejected.
4. Parties to be bear their own costs.

[Pronounced and dictated in the open Court.]

Date:- 29/07/2025.

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	29/07/2025
Judgment/Order signed by the PO on	29/07/2025
Judgment /Order uploaded on	29/07/2025