

MHWS110007422025

RCS No. 181/2025

Nagnath Vs. Shravani



ORDER BELOW EXH.5
(Passed on 10.04.2026)

1. This is an application filed by plaintiff against the defendant under Order 39 Rule 1 and 2 along with section 151 of the Code of Civil Procedure, 1908 for granting temporary injunction.
2. It is the contention of plaintiff that open plot property admeasuring 2000 sq.ft. out of area 365.10 sq.mtr. situated in Nazul Plot No. 332 in Sheet No.26-B is the property in dispute (in short hereinafter referred as 'suit property').
3. Originally old suit plot No. 332 is owned and possessed by Trimbakappa Krishnappa Vir and Nanaappa Krishnappa Vir. After the demise of Trimbakappa Vir his legal heirs were mutated on property card of Nazul while after the demise of Nanappa Vir his legal heirs namely Kalawati Nanappa Vir, Kushalkumar Nanappa Vir, Dilip Nanappa Vir, Ravindra Nanappa Vir, Sau. Sudhatai Sudhakarappa Bhakare and Sau. Ushatai Bhaskarrao Mitkari were taken on property card of Nazul. Further, after the demise of Dilip Vir his legal heirs namely Lata Dilip Vir and Ketaki Dilip Vir were taken on property card of Nazul. Thereafter, all the owners have relinquished their rights in the year 2014 in favour of Kushal Nanappa Vir, but later on the said Ferfar is cancelled. Thus, as per Nazul record who is alive and who is not alive the plaintiff do not know and the plaintiff has filed the suit against the legal heirs of Nanappa Krishnappa Vir i.e. defendant No.2 and 3.
4. Further, it is contention of plaintiff that before 50 to 60 years

the suit property was given by Nanappa Krishnappa Vir to the plaintiff for running the Vyayam Shala to their earlier founder members namely Umashankar Somnathappa Papade and other members. The members of said Vyayam Shala registered the Trust in the name of Nagnath Vyayam Shala and Umashankar Somnathappa Papade was the president of said Trust. The suit property was in settled possession of plaintiff since 50 to 60 years.

5. Defendant No.1 is residing at Karanja Lad and having ill eye over the open plot i.e. suit property and in the month of February 2023 with an intention to grab the suit property, the defendant No.1 has started forcible construction without any permission over the suit property. The plaintiff filed complaint before police station Karanja, Nagar Parishad Karanja and other authorities due to which Nagar Parishad Karanja issued notice to defendant No.1 on 23.02.2023 and directed to stop the illegal construction over the suit property. Further, the Nagar Parishad Karanja had also measured the said illegal construction admeasuring in RCC 38.54 sq.mtr. having height 2.10 mtr. Thereafter, the said construction is demolished by the said authority on 09.10.2023 and due to which defendant No.1 got annoyed and started to get registered sale-deed of suit property from the legal heirs of Nanappa Vir.

6. Further, on 15.09.2024 defendant No.1 came in the suit property and threatened the plaintiff that within the one week the sale-deed of the suit property is going to be executed and defendant No.1 will obtained the possession over the suit property. Plaintiff is in settled long possession over the suit property and his name is also mutated over the suit property in Bhogwatdar column of Record of Right of suit property. Plaintiff is having prima facie case to show that he is in possession of suit property since long, balance of convenience also lies in his favour and if

temporary injunction is not granted in his favour he may suffer irreparable injury which cannot be compensated in any means. Hence, he prayed to allow this application.

7. Per contra, defendant No.1 appeared and filed say below Exh.16 and denied all the averments of plaintiff and contended that defendant No.1 was transgender and plaintiff always disrespect her. It is the contention of defendant No.1 that her deceased father Madhukarsa Baliramsa Hingaspure has purchased the suit property from Smt. Kalawatibai Nanappa Vir, Ravindra Nanappa Vir and Dilip Nanappa Vir for total consideration of Rs.60,000/- by way of Saudachitthi on 28.06.1999 and since then the suit property was in the possession of her deceased father and herself. Thereafter, on 04.09.2025 defendant No.2 and 3 made agreement with defendant No.1 to sell out the suit property. But, the plaintiff without any reason filed the present suit. Defendant No.2 to execute the sale-deed of suit property had executed power of attorney in his favour from the other legal heirs. The suit property was the ancestral property of defendant No.2 and 3 and till today no one has donated the said property to any Trust. The record of right also shows the names of ancestors and the names of defendant No.2 and 3.

8. Further, it was contended that the Charity Commissioner, Washim in Enquiry No.442/2017 de-registered The Nagnath Vyayam Shala, Karanja. Therefore, plaintiff has no *locus-standi* to file the present suit. The suit property was in the possession of defendant No.1 and her deceased father since 28.06.1999 and plaintiff has filed the false suit to disturb her possession. Hence, application of temporary injunction be rejected.

9. Defendant No.2 and 3 filed their say at Exh.25 and denied all

the averments of plaintiff and contended that deceased father of defendant No.1 namely Madhukarsa Baliramsa Hingaspure has purchased the suit property from their deceased mother Smt. Kalawatibai Nanappa Vir, defendant No.3 and Dilip Nanappa Vir for consideration of Rs.60,000/- by way of Saudachitthi on 28.06.1999. Thereafter, on 04.09.2025 again defendant No.2 and 3 had made agreement with defendant No.1 to sell out the suit property. Plaintiff only to obstruct the execution of sale-deed filed the present suit.

10. Further, it was contended that their names were entered in the Record of Right of suit property. The Trust of plaintiff was de-registered by the Charity Commissioner, Washim in Enquiry No. 442/2017. The deceased father of defendant No.1 and defendant No.1 herself was in possession of suit property since 28.06.1999 on the basis of Saudachitthi. Plaintiff has not *locus-standi* to file the present suit, application. Hence, application of temporary injunction be rejected.

11. Following are the points for determination along with my findings there on for the reasons to follow.

Sr. No.	Points	Finding
1.	Whether the plaintiff has a prima facie case?	.. Affirmative.
2.	Whether the balance of convenience is in favour of the plaintiff?	.. Affirmative.
3.	Whether the plaintiff would suffer an irreparable loss if the application is rejected?	.. Affirmative.
4.	What order?	.. As per final Order.

REASONS

As to Point No.1 to 3:

12. It is a well settled principle of law that while dealing with

temporary injunction application, it must be seen that three test should be fulfilled and party claiming injunction should come before the court with clean hands. In accordance with settle position of law, it is necessary to find out first test that whether plaintiff has prima-facie case or not?

13. The Ld. Advocate for plaintiff argued that they are in possession of suit property since 50 to 60 years and to show his possession and obstruction by the defendant No.1 over the suit property he relied upon copy of assessment of suit property dt.20.08.2025, tax receipt for the year 2013-14 and 2015-16 dt.09.07.2015, tax receipt for the year 2016-17 dt.20.02.2023, complaint to police station, Karanja dt.24.02.2023 regarding unlawful construction over the suit property, letter dt. 23.02.2023 to defendant No.1 issued by Chief Officer, Karanja regarding unlawful construction over the suit property, letter dt.20.06.2023 to defendants and Kalawati Nanappa Vir, Kushalkumar Nanappa Vir, Dilip Nanappa Vir, etc, Panchanama dt. 09.10.2023 of Nagar Parishad, Karanja, letter to Tahasildar, Karanja dt.22.02.2023, copy of Resolution of plaintiff's Trust, affidavit of Arun Laxman Thombare, certificate of Chief Officer, Nagar Parishad, Karanja dt.06.11.2025, copy of PTR of Nagnath Vyayam Shala, affidavit Umashankarappa Papade, Sanjay Babanappa Mitkari, Nanduappa Ramappa Aitnagarkar, Shyam Sharadappa Honrao, Subhash Siddheshwarappa Vibhute, two copies of assessment list dt.27.03.2026.

14. He further argued that as his Trust is de-registered he has filed application to condoned the delay for setting aside the said order of de-registered of said Trust and filed its certified copy on record. Finally, he submitted that he was in possession of the suit property and relied upon judgment in *Maruti Jayram Kadam Vs. Mahadu Govind Kadam and others 2010 (4) Mh.L.J. 990* and prayed to allow his application.

15. Per contra, the Ld. Advocate for defendant No.1 to 3 argued that deceased father of defendant No.1 and defendant No.1 were in possession of suit property on the basis of Saudachitthi dt.28.06.1999 and now defendant No.1 is going to execute sale-deed of suit property and in respect of which she has executed agreement dt.04.09.2025 and relied upon order of Charity Commissioner dt.16.11.2017, death certificate of Kalawati Nanappa Vir, Saudachitthi dt.28.06.1999, copy of assessment list dt.09.10.2025, tax receipt for the year 2024-25 dt.16.03.2025, Record of Right dt.09.07.2025, power of attorney in favour of defendant No.3 dt.22.09.2025, copy of assessment list dt.10.03.2026 and affidavit of Raju Gulabsa Gulalkari. Finally, defendant No.1 submitted that she is in possession of suit property since 28.06.1999 and plaintiff unlawfully obstructing to execute the sale-deed in her favour. Hence, application of plaintiff be rejected.

16. In the present matter plaintiff and defendant No.1 both are claiming that they are in respective possession of suit property. Plaintiff to show that he is in possession of suit property had relied upon copy of assessment list dt.20.08.2025, dt.27.03.2026 in which his Trust name appears in possession column (भोगवट्याचे नाव), tax receipts for the year 2013-14 dt. 09.07.2015, in which name of plaintiff's Trust reflects. Further, plaintiff to show that he is in possession had relied upon complaint to police station dt.24.02.2023, complaint to Tahasildar, Karanja dt.22.02.2023 regarding unlawful construction by defendant No.1 over the suit property. Plaintiff also relied upon letter dt.20.06.2023, panchanama dt.09.10.2023 regarding the action taken by Municipal Council, Karanja against defendant in respect of removal of unlawful constructions made by defendant No.1 over the suit property.

17. Per contra, defendant No.1 to show that she was in possession

of suit property relied upon Saudachitthi dt.28.06.1999, copy of assessment list dt.09.10.2025, dt.10.03.2026 which is in respect of open plot bearing new number 173, in which name of Kalawatibai Nanappa Vir reflects in possession column (भोगवट्याचे नाव). Further, defendant No.1 to show that she was in possession of suit property relied upon tax receipt for the year 2024-25 dt.16.03.2025 which is in the name of Kalawatibai Nanappa Vir.

18. From the perusal of revenue record filed by both parties it reflects that plaintiff filed copy of assessment list in respect of Plot No.172 and defendant filed assessment list in respect of Plot No.173, which are totally different from each other. The contention of learned advocate for defendant that the Trust of plaintiff was de-registered by the office of Assistant Charity Commissioner, Washim and plaintiff has not *locus-standi* to file present application. Moreover, another contention that suit property does not reflect in the PTR of said Trust. To decide the present application the Court has to only look who is in possession of suit property on the date of application and not the title, the status to file the present application.

19. Tax receipts, copy of assessment list, documents relating to action taken by Municipal Council, Karanja against defendant No.1 for removing the unlawful over the suit property prima facie show that plaintiff was in possession of suit property. Moreover, the copy of assessment list filed by defendant was in respect of Plot No.173. Further, the objection of defendant that plaintiff has no *locus-standi* is prima facie cured by the plaintiff by filing resolution of the said Trust to file the present suit. Both parties have filed affidavits of persons showing the respective parties were in possession of suit property has not substance when the document from revenue authority can decide the possession of

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either party over the suit property. In the present case, the document filed by the plaintiff prima facie shows that he was in possession over the suit property.

20. As the plaintiff has prima facie shows that he was in possession over the suit property balance of convenience also lies in his favour. The question regarding the title of suit property is a matter of trial. Hence, in such circumstances if the protection to the plaintiff is not given then he may suffer irreparable loss. Accordingly, in view of above finding I answer Point No.1 to 3 in affirmative and in answer to point No.4 following order is passed.

ORDER

1. Application is allowed.
2. Defendants, their agents, servant, or any person appearing on their behalf are hereby restrained from causing obstruction to the peaceful possession of the plaintiff over the suit property till the final decision of suit.
3. Costs in main cause.

Date : 10/04/2026. Karanja (Lad).		(B. A. Nerlikar) 2 nd Jt. Civil Judge (Jr.Dn.), Karanja (Lad).
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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 Steno :- Devendra V. Daware (Stenographer Grade-III)
Court Name :- 2nd Jt. Civil Judge (Jr.Dn.) and J.M.F.C., Karanja.
Dist. Washim.
Date :- 10/04/2026
Order signed by the
presiding officer on:- 10/04/2026
Order uploaded on:- 10/04/2026