

MHWS110009472025



Spl.C.S. No. 56/2025

(Old Spl.C.S. No.12/2020)

Nanda Dhanraj Thakur & Ors. Vs.

Fulchand Babulal Karmvanshi & Ors.

ORDER PASSED BELOW EXH.29

(Passed On 27th July, 2026)

Present application has been filed by the plaintiffs/applicants who are the legal representatives of deceased plaintiff Nanda Dhanraj Thakur under Order XXXIX Rules 1 & 2 of the Civil Procedure Code, 1908 for the relief of temporary injunction against defendant Nos.3 to 5 thereby restraining them from creating third party interest in the suit properties i.e. as described in detail in Para No.1 of the plaint till final decision of the suit.

2. Perused application, say of defendant Nos.3 to 5 at **Exh.30** and documents filed on record by plaintiffs and defendant Nos.3 to 5. Also heard learned advocate for plaintiffs and learned advocate for defendant Nos.3 to 5 at length.

3. Ld. advocate for plaintiffs has submitted that plaintiff Nos.1-A to 1-D are the legal representatives of the deceased Nanda Dhanraj Thakur, who was the daughter of deceased defendant No.1 and deceased defendant No.2 and was the sister of defendant Nos.3 to 5. It is further submitted that suit properties are the ancestral properties of deceased plaintiff and defendant Nos.3 to 5. Deceased plaintiff was having 1/4th share in the suit properties. Therefore, plaintiff Nos.1-A to 1-D being Lrs. of deceased plaintiff are jointly entitled to share in said 1/4th share of deceased plaintiff.

4. Learned advocate for plaintiffs has further submitted that during pendency of suit, deceased defendant No.1 while he was alive illegally executed Gift Deed dated 22.12.2020 in favour of defendant

Nos.3 to 5 in respect of suit properties in order to defeat the claim of his daughter i.e. deceased plaintiff. Now, the plaintiffs have come to know that the defendant Nos.3 to 5 are trying to create third party interest in the suit properties in order to defeat the claim of plaintiff Nos.1-A to 1-D. Now the defendant Nos.3 to 5 at any time may create third party interest in the suit properties. Therefore, it is necessary to restrain the defendant Nos.3 to 5 from creating any third party interest in the suit properties.

5. Learned advocate for plaintiffs has further submitted that the plaintiffs are having a strong prima facie case. The balance of convenience lies in their favour. If defendant Nos.3 to 5 are not restrained then there will be huge loss to the plaintiffs, therefore, it is necessary to restrain them temporarily from creating third party interest in the suit properties. Hence, learned advocate for plaintiffs has prayed for grant of this application.

6. On the contrary, learned advocate for defendant Nos.3 to 5 has argued that present application for temporary injunction is filed by suppressing material fact that in the year 1998 the deceased plaintiff i.e. the daughter of defendant No.1 namely Nanda Dhanraj Thakur had waived her share in the suit properties after receiving amount of Rs.70,000/- (Seventy Thousands Only) cash as a consideration of her share from defendant No.1 in front of defendant Nos.2 to 5 and her husband Dhanraj Ramkrushna Thakur and sister of deceased defendant No.1 Shobha Haridas Jamuna who is residing at Akola, Tq. and Dist. Akola on 10.03.1998 at Karanja (Lad) at the house of defendant No.1.

7. Learned advocate for defendant Nos.3 to 5 has further submitted that after receiving Rs.70,000/- the deceased plaintiff Nanda Dhanraj Thakur had handed over the said amount to her husband Dhanraj Ramkrushna Thakur and said Dhanraj has

purchased the agricultural field Survey No.7/1-A admeasuring 1 H 82 R from one Vishwanath Mahalle which is situated at Mauje Inza, Tq.Karanja, Dist.Washim.

8. Learned advocate for defendant Nos.3 to 5 has further submitted that Dhanraj Ramkrushna Thakur was not having any source of income and he was resident of Wadhona Pimpri, Tq. and Dist. Amravati and he was residing as dependent upon defendant Nos.1 to 5 and residing at Karanja (Lad). Therefore, it is evident that, deceased Nanda Dhanraj Thakur who was daughter of defendant No.1 had waived her share in suit properties in the year 1998, therefore, claim of separate share and partition and possession is baseless, with suppression of material facts.

9. Learned advocate for defendant Nos.3 to 5 has further submitted that the deceased defendant No.1 had exclusive share in the suit properties as a owner of the suit properties and sister of deceased defendant No.1 namely Shobha Haridas Jamuna residing at Akola had also waived her share in favour of defendant No.1 suo-moto and deceased Nanda Dhanraj Thakur and Dhanraj Ramkrushna Thakur were having knowledge about waiving of her share in suit properties after receiving Rs.70,000/- since 1998.

10. Learned advocate for defendant Nos.3 to 5 has further submitted that the plaintiffs have no right to seek declaration regarding the registered Gift Deed dated 22.12.2020 executed by deceased defendant No.1 in favour of defendant Nos.3 to 5 and said Gift Deed is legal and valid and binding upon the plaintiffs. Thus, plaintiffs have no prima facie case. No balance of convenience lies in their favour. No irreparable loss will be caused to them if present application for temporary injunction is rejected. Hence, learned

advocate for defendant Nos.3 to 5 prayed for rejection of present application with heavy costs.

11. In view of above submissions of learned advocates for plaintiffs and defendant Nos.3 to 5 following points arise for my determination and I have recorded my findings thereon for the reasons discussed below.

Sr. No.	Points	Findings
1)	Whether plaintiffs/applicants are having prima-facie case?	In the affirmative.
2)	Whether balance of convenience lies in favour of plaintiffs/applicants?	In the affirmative.
3)	Whether irreparable loss would be caused to plaintiffs/applicants if the temporary injunction, as sought for, is not granted?	In the affirmative.
4)	What order ?	Application is allowed.

REASONS

As to point Nos.1 to 3 :

12. It is pertinent to note here that plaintiffs are seeking temporary injunction against the defendant Nos.3 to 5 thereby restraining them from creating third party interest in the suit properties. It is to be noted here that it prima facie appears from the record that deceased plaintiff Nanda Dhanraj Thakur being the daughter of deceased defendant No.1 was having share in the suit properties. However, as per the contention of defendant Nos.3 to 5, during her lifetime, deceased plaintiff had waived her share in the suit properties after receiving amount of Rs.70000/- from her father i.e. deceased defendant No.1 on 10.03.1998.

13. However, it is further pertinent to note here that the defendant Nos. 3 to 5 have not filed any documentary proof such as registered Relinquishment Deed having executed by deceased plaintiff in the year 1998 thereby giving up her share in the suit properties in favour of her father. Moreover, defendant Nos.3 to 5 have filed on record photocopy of affidavit dated 29.05.2005 for showing that deceased plaintiff had made said affidavit thereby waiving her share in the suit properties in favour of her father after receiving amount of Rs.1,00,000/-. However, aforesaid affidavit being unregistered document can not be considered at this interim stage of the matter for denying the claim of plaintiffs in the suit properties.

14. It is to be noted here that during the pendency of suit, deceased defendant No.1 had executed Gift Deed in respect of suit properties in favour of defendant Nos.3 to 5. Therefore, the possibility of creating third party interest in the suit properties by the defendant Nos.3 to 5 on the basis of said Gift Deed can not be ruled out. As such, it is necessary to restrain the defendant Nos.3 to 5 from creating third party interest in the suit properties to protect the status of suit properties.

15. Thus, considering the peculiar facts and circumstances of the present case and material on record, I hold that plaintiffs have made out prima facie case. Plaintiffs have also shown that balance of convenience lies in their favour. Moreover, they have shown that irreparable loss will be caused to them if temporary injunction is rejected. Therefore, I think it just and proper to allow this application. Thus, I answer point Nos.1 to 3 in the affirmative.

As to point No.4 :

16. Considering all these aspects, I am of the opinion that,

present application deserves to be allowed. Therefore, I pass following order.

ORDER

1. Present application is allowed
2. Defendant Nos.3 to 5 or any other person on their behalf are hereby temporarily restrained from creating third party interest in the suit properties till the final decision of present suit.
3. costs in cause.

Date – 27/07/2026.

(S. W. Thombre)
Civil Judge, (Sr.Dn.),
Karanja (Lad).

CERTIFICATE

I affirm that the contents of this PDF file judgment/order are same word to word, as per original judgment/order.

- 1) Name of Stenographer :- D. V. Daware (Stenographer Grade-III)
- 2) Name of Court :- Civil Judge (Sr.Dn.), Washim.
- 3) Date :- 27/07/2026
- 4) Order signed by the :- 27/07/2026
presiding officer on
- 5) Order uploaded on :- 27/07/2026