

MHWS110014952025

RCS No. 12/2025  
Sangita Vs. Gayabai



**ORDER BELOW EXH.5**  
**(Passed on 21.04.2026)**

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 agricultural land admeasuring 0.94 HR situated at gat no. 240 was owned by Anusayabai Shyamrao More is the property in dispute (in short hereinafter referred as 'suit property'). The suit property was received by Anusayabai More by way of Ceiling Act under the provisions of The Maharashtra Agricultural Land (Ceiling on Holdings) Act 1961. Anusayabai More had executed Will of suit property in favour of Arun Shankarrao Sardar on 09.06.2014 by way of registered deed bearing no.2312/2014. Anusayabai More died on 22.09.2016 and after her demise the suit property came in the possession of Arun Shankarrao Sardar.

3. Further, it is contended that defendant who is daughter of deceased Anusayabai More applied before Revenue Authority for mutation of suit property in her name and the said Revenue Authority mutated the suit property by way of mutation bearing No.591 in favour of defendant. Thereafter, plaintiff and her deceased husband challenged the mutation entry No.591 before Tahasildar, Sub-Divisional Officer, Karanja and Deputy Collector, Washim, but the said authorities upheld the mutation entry No.591 in favour of defendant. Thereafter, plaintiff challenged the said mutation order before The Divisional Commissioner, Amaravati and it was

pending before the said authority.

4. Defendant on the basis of illegal mutation entry in respect of suit property by the order of Tahasildar, karanja dt. 29.05.2018 creating obstruction into the peaceful possession of the plaintiff. On 02.02.2025 at 1.30 pm defendant entered into the suit property to obtain its forceful possession and threatened to kill the plaintiff. Plaintiff is having prima facie case to show that she is in possession of suit property since long, balance of convenience also lies in her favour and if temporary injunction is not granted in her favour she may suffer irreparable injury which cannot be compensated in any means. Hence, she prayed to allow this application.

5. Suit summons were issued to defendant, but in spite of service of suit summons through R.P.A.D defendant did not appear in the suit. Hence, the application proceeded ex-parte against her.

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

<b>Sr. No.</b>	<b>Points</b>	<b>Finding</b>
1.	Whether the plaintiff has a prima facie case?	..In negative.
2.	Whether the balance of convenience is in favour of the plaintiff?	..In negative.
3.	Whether the plaintiff would suffer an irreparable loss if the application is rejected?	..In negative.
4.	What order?	..Application is rejected.

### **REASONS**

#### **As to point No.1 to 3:-**

7. 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?

8. The Ld. Advocate for plaintiff argued that suit property was received by the husband of plaintiff No.1 by way of registered Will-deed dt.09.06.2014 and after the demise of her husband plaintiff exclusively become the owner and possessor of suit property. Defendant being the daughter of deceased Anusayabai More has taken undue advantage and mutated the suit property in her name and on the basis of said mutation disturbing, obstructing the peaceful possession of plaintiff. Hence, prayed to allow their application.

9. In the case in hand, after service of summons defendant has appeared, but failed file her written statement and say. Hence, the suit and application was proceeded against her without her written statement and say. The contention of plaintiff that they are in possession of suit property after the demise of Anusayabai Shamrao More on the basis of Will-deed dt.09.06.2014.

10. The document on which plaintiffs relied is 7/12 extract of suit property in which name of defendant reflects by way of mutation entry No.591. The mutation entry appears to be challenged by the plaintiff and her husband before Tahasildar, Karanja, Sub-Divisional Magistrate, Karanja, Deputy Collector, Washim. But the said authorities had confirmed or upheld the mutation entry in favour of defendant. Except pleading nothing is brought by plaintiff on record to show that they are in possession of suit property on the basis of Will-deed and the revenue authorities before whom the mutation entry was challenged has held that

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without prior permission of concerned authority agricultural land in occupancy class-II cannot be transferred. Moreover, plaintiff has only filed simplicitor injunction suit against the defendant and has not filed any relief seeking declaration of ownership in respect of suit property on the basis of above-said Will-deed. Though defendant has not filed her say, it is the plaintiff who have to show the prima facie case was in their favour. The copy of 7/12 extract and the orders of revenue authority prima facie shows that plaintiff failed to made out their case in their favour. Hence, I answer point No.1 in negative.

11. The transfer of suit property by way of Will-deed whether legal or illegal is a matter of trial. From the record it reveals that plaintiff and her husband challenged the mutation entry of suit property in favour of defendant in round of litigation before revenue authorities since 2018 till filing of application and the said authorities passed the order against the plaintiff. As the plaintiff failed to show the ownership and possession over the suit property hence, balance of convenience also does not lies in their favour. Therefore, I answer point No.2 in negative. From the above discussion I am of opinion that if the application of plaintiff is not allowed, they may not suffer irreparable loss. Therefore, I answer point No.3 in negative and in answer to point No.4, I pass the following order.

**ORDER**

Application is rejected.

Date : 21/04/2026  
Karanja (Lad).

**(B. A. Nerlikar)**  
2<sup>nd</sup> Jt. Civil Judge (Jr.Dn.),  
Karanja (Lad).

**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 :- 2<sup>nd</sup> Jt. Civil Judge (Jr.Dn.) and J.M.F.C., Karanja.  
Dist. Washim.  
Date :- 21/04/2026  
Order signed by the  
presiding officer on:- 21/04/2026  
Order uploaded on:- 21/04/2026