

**IN THE COURT OF CIVIL JUDGE, JUNIOR DIVISION AT GHATANJI,**  
**DISTRICT-YAVATMAL.**  
(Presided over by P. R. Patil)

**Regular Civil Suit No.45/2025**

**Vishwanath**

**...Vs...**

**Satish**

**ORDER BELOW EXH. 5**

(Passed on 28<sup>th</sup> day of November, 2025)

The plaintiff has filed the present suit for permanent injunction. In the present proceedings, the plaintiff has also filed an application under Order XXXIX Rules 1 & 2 of the Civil Procedure Code to restrain the defendants no. 1 and 2 or any other person on their behalf from obstructing the possession of plaintiff over the suit property, till final disposal of suit.

2. The case of the plaintiff, in short, is as under:-

The plaintiff is having property bearing property no. 1, situated at Ward No. 2 within the limits of Gram Panchayat Sawargoan Mungi. The plaintiff had purchased the said property from one Natthu Maroti Shende on 12.02.1985 for the consideration of Rs. 2,000/-. The area of said property is 60 x 55 = 3300 sq. ft. The plaintiff is in the possession of said property. The said property is also mutated in the name of plaintiff and he is in peaceful possession of suit property since 1985. The property described in this para shall be hereinafter called as suit property.

3. The plaintiff started the construction of the compound wall over the suit property. Defendants have obstructed the plaintiff from construction and they showed Gaon Namuna 8-A of suit property to the plaintiff. On the perusal of Gaon Namuna 8-A of suit property, it came into knowledge of plaintiff that the area in Gaon Namuna 8-A of suit property is recorded less than the area possessed by the plaintiff. The plaintiff was also applied for measurement of suit property to the defendant no. 3 i.e. Gram Panchayat Sawargaon. But the Gram Panchayat neglected to carry out measurement of suit property. The defendants without having any reasons obstructed the possession of plaintiffs over the suit property. The defendants are taking the dis-advantage of the entry of area of suit property recorded in Gaon Namuna 8-A. Therefore, it is necessary to restrain the defendants no. 1 and 2 from obstructing the peaceful possession of plaintiff over the suit property.

4. The defendants no. 1 and 2 by filing their reply cum written statement at Exh. 14 resisted the claim of plaintiff. It is the contention of defendants no. 1 and 2 that they are having their property at Ward No. 1 within the limits of Gram Panchayat Sawargaon and they are residing in the said property since last many years. The defendants have not disputed the ownership of plaintiff over the suit property. They contended that the area of suit property is 2445 sq. ft. The area 2445 sq. ft. is also recorded in the Gaon Namuna 8-A of suit property. The plaintiff falsely mentioned in the suit that the suit property is having the area of 3300 sq. ft. The plaintiff himself intend to encroach over the property of defendants

no. 1 and 2 by showing the area of suit property more than which the plaintiff is possessed. Therefore, the present application liable to be rejected.

5. In the backdrop of the pleadings and the documents filed on record, I heard the learned advocate for plaintiff and defendants at length. Following points arise for my determination and I have recorded my findings against the same for the reasons mentioned as under :-

| SN | Points                                                                                                                    | Findings                 |
|----|---------------------------------------------------------------------------------------------------------------------------|--------------------------|
| 1  | Whether the plaintiff proves that he is having prime facie case ?                                                         | No                       |
| 2  | Whether the plaintiff proves that balance of convenience lies in his favour ?                                             | No                       |
| 3  | Whether plaintiff proves that he would suffer irreparable loss if the temporary injunction is not granted in his favour ? | No                       |
| 4  | What order ?                                                                                                              | Application is rejected. |

## **REASONS**

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

6. All the points being interlinked with each other, I proceed to discuss them together.

The learned advocate for the plaintiff has vehemently argued that the plaintiff is the owner of suit property which is having its area of 3300 sq. ft. He further argued that the defendant obstructing to the plaintiff from construction of compound wall over the suit property. The plaintiff prove his prima facie case, balance of

convenience also lies in his favour and irreparable loss would be caused if the temporary injunction is not granted in favour plaintiff.

7. On the contrary, the learned advocate for defendants has argued that the plaintiff has not mentioned the description of suit property. He further argued that on the document it is prima facie seen that the plaintiff is the owner of suit property which is having its area of 2445 sq. ft. He further argued that the plaintiff prima facie failed to show that he is the owner of 3300 sq. ft. area. The plaintiff failed to prove prima facie case and balance of convenience also do not lies in his favour. No irreparable loss would be caused to the plaintiff if the temporary injunction is refused.

8. The plaintiff in this suit claimed that he is the owner of suit property bearing property no. 1 situated Ward No. 2 within the limits of Gram Panchayat Sawargaon, Ta. Ghatanji, Dist. Yavatmal. It is his further contention that the suit property is having its area 3300 sq. ft. But the plaintiff failed to mentioned the description of suit property in the plaint. Order VII Rule 3 of the Code of Civil Procedure provides that when the subject matter of suit property is immovable property, the plaint must content the description sufficient to identify it. The plaint should also specify boundaries of the suit property. But the plaintiff in this case has not mentioned the description or the boundaries of the suit property.

9. It is the case of the plaintiff that the suit property is having its area of 3300 sq. ft. and the defendant obstructed his possession over the suit property. It is his further contention that defendant no. 3

i.e. Gram Panchayat has wrongly mentioned the area of suit property as 2445 sq. ft. in Gaon Namuna 8-A of suit property. The plaintiff in support of his contention has relied on the sale deed of suit property. On the perusal of sale deed of suit property which was executed by one Natthuji Maroti Shende in favour of plaintiff it is seen that the said sale deed is not registered document. Therefore, at this stage, it could not be proper to rely on this document. The plaintiff also filed the tax receipts of suit properties. On the bare perusal of tax receipts it is seen that the plaintiff is the owner of suit property. The ownership of plaintiffs over the suit property also not disputed by the defendants. But the dispute is that the suit property is not having its area 3300 sq. ft. On the other hand, the defendants have filed the copy of Gaon Namuna 8-A of suit property below the list of document at Exh. 17. On the perusal of Gaon Namuna 8-A of suit property prima facie it is seen that the suit property is having its area of 2445 sq. ft. The plaintiff prima facie also failed to show that as to why since 1985 he has not taken any efforts to correct the area of suit property mentioned in the Gaon Namuna 8-A. Prima facie the plaintiff failed to prove that the suit property is having its area 3300 sq. ft. Therefore, the plaintiff prima facie failed to prove the case in his favour. The balance of convenience also do not lies in his favour and no irreparable loss would be caused to the plaintiff if the temporary injunction is not granted in his favour.

10. Therefore, after considering the above discussion, I am of the view that there is no prima facie case and balance of convenience also not lies in favour of plaintiff and no question of irreparable loss is

arises. Thus, I answer point nos.1 to 3 in the negative and pass following order as a result of point no.4.

**ORDER**

1. The application at Exh. 5 is rejected.
2. Cost will be considered with final order.

Ghatanji.  
Date:- 28.11.2025.

(P. R. Patil)  
Civil Judge, Jr.Dn., Ghatanji,  
District- Yavatmal.

|                             |            |
|-----------------------------|------------|
| Argument heard on           | 28.11.2025 |
| Order passed on             | 28.11.2025 |
| Transcription ready on      | 28.11.2025 |
| Order checked and singed on | 28.11.2025 |

**CERTIFICATE**

I affirm that the contents of this P.D.F. file of order are word to word correct, as per original order.

**Name of Stenographer-** A. M. Suryawanshi (Gr.-III)