

ORDER BELOW EXH. NO. 5 IN R. C. S. NO. 57/2024
(Vachhala V/s. Manohar & Ors.)
(28/07/2025)

The present application for temporary injunction has been filed by the plaintiff under **Order XXXIX, Rules 1 and 2 of the Code of Civil Procedure, 1908**, seeking an order of temporary injunction restraining the defendants no. 1 to 5, their agents, servants, or any person acting on their behalf from disturbing, obstructing, or interfering in any manner with her peaceful possession and cultivation of the suit land bearing **gat no. 125, ad-measuring 5H. 42R** situated at village Wardha, Tal. Ralegaon, Dist. Yavatmal, until the final disposal of the main suit.

Facts of the case of plaintiff are as under -

02. The plaintiff is the owner and is in exclusive possession and cultivation of the suit land. It is pleaded that prior to her, her father, namely Namdev Tanaba Pardhan, was in possession and cultivation of the said land. The plaintiff claims that her pre-existing possession was subsequently recognized and affirmed by the Bhudan Yagna Mandal, Nagpur (Defendant No. 6), which, under the provisions of the Bhudan Yagna Act, formally allotted the suit land to her. In furtherance of this allotment, the Mandal issued a Bhudan Patta (allotment certificate) bearing serial no. 379 in her favour on 28/02/2006, thereby making her the owner with Bhumidhari rights.

03. It is the plaintiff's contention that she cultivates the suit land through her step-grandson namely Jaypal Bhaskar Pendor. She has pleaded that in the current agricultural season, she has sown Cotton

and Tur (तूर) crops in the suit land.

04. The plaintiff pleads that despite the issuance of the Bhudan Patta and a communication from the Bhudan Yagna Mandal to the Tahsildar, Ralegaon, dated 28/02/2006, for effecting a mutation entry in her name, the revenue authorities failed to take any action. The plaintiff admits that her name has not been recorded in the revenue records to date. She states that she pursued the matter with the revenue authorities by filing applications with the Tahsildar on 07/09/2020 and subsequently with the Sub-Divisional Officer on 05/12/2022, but the matter remains pending due to what she terms as administrative lethargy. The cause of action for filing the present suit and application is pleaded to have arisen on 03/10/2024. On this day, at approximately 9:00 a.m., when the plaintiff and her grandson were inspecting the crops in the suit land, the defendant no. 4 namely Deepak Shridhar Akkalwar, allegedly arrived armed with a stick (kathi). He is alleged to have threatened them, used caste-based abusive language (सालेहो आदीवासी परधाने पुन्हा येथे यायचे नाही), and warned them not to enter the land again, asserting that the defendants' names are now reflected in the 7/12 extract. He is also alleged to have threatened to kill them. The plaintiff also contends that she filed a police complaint regarding the threats, but was advised to approach the Civil Court. Plaintiff is currently in possession and cultivation of the suit land, and if a temporary injunction is not granted, she will suffer irreparable loss and be dispossessed illegally. Plaintiff requested the defendants for not causing interference and obstruction in the possession of the plaintiff over the suit property. However, the defendants unfairly did not pay heed to her request. It constituted the cause of action for the suit and

consequently for filing application under consideration. Prima facie case is in favour of the plaintiff. Therefore, the defendants are required to be restrained by an order of temporary injunction.

05. The defendants no. 1 to 5 have filed their joint written statement and reply at exhibit no. 16, vehemently opposing the suit and the application for temporary injunction. They categorically deny the plaintiff's claim of ownership, possession, and cultivation over the suit land. They assert that the plaintiff has never been in possession of the suit land, either before or after the alleged issuance of the Bhudan Patta. The averment that she cultivates the land through her grandson is also specifically denied as being false.

06. The defendants contend that the entire land of gat no. 125 is owned by the Bhudan Yagna Mandal. They plead that their father, the late Shridhar Govindrao Akkalwar, was a landless labourer to whom the suit land was given for cultivation and livelihood by the Bhudan Yagna Mandal more than 50 years ago. Their father remained in continuous and peaceful possession of the land until his death in 1997. Thereafter, the defendants, being his sole legal heirs, have continued in uninterrupted possession and cultivation of the suit land. In support of their long-standing possession, the defendants state that their names have been duly mutated in the revenue records as the legal heirs of the deceased Shridhar Akkalwar. This was effected vide Mutation Entry No. 908, certified on 30/06/2020, and this entry has not been challenged by the plaintiff or anyone else to date.

07. The defendants frontally attack the Bhudan Patta dated

28/02/2006, which forms the bedrock of the plaintiff's claim. They have labelled the said Patta as “bogus and fabricated”. To substantiate this allegation, they argue that if the plaintiff had genuinely received a valid Patta in 2006, she would have taken immediate steps to have her name entered in the revenue records. Her failure to take any such action for over 14 years, from 2006 until 2020, is presented as conclusive proof that the document was never acted upon and is not genuine. They assert that the Bhudan Mandal never dispossessed them or their father, nor cancelled the allotment made to their father. If the present application of the plaintiff is granted, the defendants will suffer immeasurable loss and will have to be deprived of their legal right. Plaintiff has filed a false suit. Plaintiff is not in actual possession over the suit property as shown by her in the plaint and therefore there is no question of disturbance at the hands of defendants to the possession plaintiff over suit property. In view of the above contentions the defendants contend that the plaintiff has not made out prima facie case, balance of convenience does not lie in her favor, also she would not suffer any loss. Accordingly, the defendants prayed for rejection of the present application.

08. The plaintiff by filing pursis at exh. no. 15 has informed the Court that in present case, the plaintiff has filed an application for temporary injunction exh. no. 5. The said demand for temporary injunction is not against defendant no. 6.

09. Heard learned Advocate for the plaintiff and learned Advocate for defendants no. 1 to 5.

10. Upon careful consideration of the rival pleadings of the

parties, the arguments advanced by their learned counsel, and the documents placed on record, the following points arise for determination for the limited purpose of deciding this interlocutory application. I have recorded my findings against each of them for the reasons to follow:

<u>Sr. No.</u>	<u>Points</u>	<u>Findings</u>
1	Whether the plaintiff has made out prima facie case in his favour?	In negative.
2	Whether the balance of convenience lies in favour of the plaintiff?	In negative.
3	Whether the plaintiff would suffer irreparable loss if temporary injunction is not granted in his favour?	In negative.
4	What order?	As per final order.

REASONS AND FINDINGS

11. The learned Advocate for the plaintiff **Shri. P. L. Chauhan** argued that the plaintiff, a 70 year old tribal woman, has approached this Court seeking to protect her rightful possession of the suit land, which is being threatened by the defendants. The plaintiff is rightfully entitled to the equitable relief of injunction. The cornerstone of the plaintiff's case is the Bhudan Patta dated 28/02/2006, issued in her favour by the Bhudan Yagna Mandal. This is not merely an ordinary document; it is a statutory instrument of title issued under the Bhudan Yagna Act, a social welfare legislation. It confers Bhumidhari rights

upon the plaintiff, making her the lawful owner.

12. The learned Advocate for the plaintiff also argued that once the Bhudan Yagna Mandal allotted the land and issued the Patta, the plaintiff's legal and physical possession was established. The plaintiff's cultivation through her grandson, Jaypal Pendor, is a clear assertion of her possessory rights. The plaintiff's name was not entered into the revenue records due to administrative lethargy on the part of the revenue authorities, a fact she has pleaded. She diligently pursued the matter by submitting applications to the Tahsildar and the Sub-Divisional Officer in 2020 and 2022. The subsequent mutation in the defendants' names in 2020 is a collusive and illegal act, which the plaintiff intends to challenge separately.

13. The learned Advocate for the plaintiff further argued that the very purpose of the Bhudan Yagna Act is to provide land to the landless. Refusing the injunction allows the defendants, who have no legal title, to continue enjoying the fruits of land specifically allotted to a deserving, landless person. Granting the injunction would preserve the land for its rightful owner and prevent the defendants from unjustly enriching themselves. The hardship caused to the plaintiff by being deprived of her only source of livelihood is far greater than any inconvenience that may be caused to the defendants.

14. The learned Advocate for the plaintiff also argued that the plaintiff is an agriculturist, and the suit land is her sole means of subsistence. Being prevented from cultivating her land and harvesting the crops she has sown results in a direct loss of livelihood. This loss, particularly for a person of her age and economic status, is an injury

that cannot be adequately compensated by money. Therefore, he prayed for granting temporary injunction to protect lawful possession of the plaintiff.

15. The learned Advocate for the defendants no. 1 to 5 **Shri. M. M. Bobade** argued that the plaintiff has failed to produce a single credible evidence to prove her actual, physical possession of the suit land on the date of filing the suit. There is no possession receipt from the Bhudan Mandal, no panchanama of delivery, no land tax receipts, no crop loan documents, and no affidavit from any independent witness to support her claim of cultivation. A suit for injunction must be based on established possession, not a mere paper claim. The defendants have established their long, continuous, and settled possession through a chain of public documents. The revenue records, including the 7/12 extracts and mutation entries, consistently show the names of the defendants and their predecessor, Shridhar Akkalwar, as the persons in possession and cultivation for decades. Under Section 157 of the Maharashtra Land Revenue Code, 1966, the entries in the Record of Rights (7/12 extract) are presumed to be true until the contrary is proved. The defendants are protected by this strong statutory presumption. The plaintiff has failed to rebut this presumption. Her own police complaint, which speaks of an attempt to obstruct her, indicates a dispute, not her settled possession.

16. The learned Advocate for the defendants no. 1 to 5 also argued that the plaintiff's conduct is fatal to her claim for equitable relief. She claims to have received the Bhudan Patta in 2006 but slept over her alleged rights for 14 years before making her first application

for mutation in 2020. This inordinate and unexplained delay raises a serious and credible doubt about the genuineness and validity of the Patta itself, which the defendants have rightly termed “bogus and fabricated”. Equity aids the vigilant, not the indolent.

17. The learned Advocate for the defendants no. 1 to 5 further argued that the fact that other Bhudan allottees in the same gat no. 125 (Santosh Murkhe and Anandrao Murkhe) were able to get their names mutated in the revenue records in 2020 and 2023 respectively demolishes the plaintiff's excuse of administrative delay. It proves that the revenue machinery was functional and that the failure to record the plaintiff's name was due to the fundamental weakness of her claim, likely the non-delivery of possession. The balance of convenience lies in favour of the defendants. Granting an injunction would mean dispossessing the defendants without a trial, which is impermissible in law. This would cause them greater hardship and mischief. Refusing the injunction merely maintains the existing state of affairs pending the final outcome of the suit.

18. The learned Advocate for the defendants no. 1 to 5 further argued that the concept of irreparable injury is linked to the dispossession of a person who is in possession. Since the plaintiff has failed to prove her possession, the question of her being dispossessed and suffering an injury does not arise. The plaintiff has not approached the Court with clean hands, suppressing her own delay and laches, and has failed to establish a prima facie case of possession. The balance of convenience and the question of irreparable injury are firmly in favour of the defendants. The application is devoid of merit and is liable to be

rejected.

19. I have perused the application for temporary injunction, the plaint, the say filed by the defendants no. 1 to 5 and all the documentary evidence produced on record by both parties.

As to Point No. 1:

20. The first and foremost principle for the grant of a temporary injunction is the establishment of a prima facie case. This does not mean that the plaintiff must prove her case to the hilt, but that she must show that there is a serious question to be tried and that, on the facts before the Court, there is a probability of her being entitled to the relief sought. In a suit for injunction based on possession, the plaintiff must demonstrate that she was in settled, peaceful, and lawful possession of the suit property on the date of the institution of the suit.

21. The Court must weigh the evidence produced by both parties to ascertain the state of affairs regarding possession. The plaintiff's entire claim of possession is based upon the Bhudan Patta dated 28/02/2006. While this document, on its face, purports to be a certificate of allotment issued by the Bhudan Yagna Mandal in favour of the plaintiff, it is fundamentally a document that confers a right or title. It is not, in itself, conclusive proof of the delivery of physical possession. The Bhudan Patta is merely a certificate of allotment. For the title to be perfected, it must be followed by the actual delivery of physical possession, which is typically evidenced by a possession receipt (ताबा पावती) or a panchanama. The plaintiff has failed to produce a single such

document. The Patta, without evidence of it being acted upon, remains a mere piece of paper with no legal force to establish possession. For this Court to infer possession, the Patta must be supported by corroborative evidence showing that it was acted upon and that possession was, in fact, handed over to the plaintiff. The plaintiff has failed to place on record any such corroborating evidence. There is no possession receipt (ताबा पावती) executed by the Bhudan Mandal authorities, no panchanama evidencing the delivery of possession, no receipts for payment of land revenue, no records of crop loans from any financial institution, and no 7/12 extract showing her name as the cultivator. The plaintiff's assertion that she cultivates the land through her step-grandson, Jaypal Pendor, remains a bare pleading, unsubstantiated by an affidavit from Jaypal Pendor himself or from any independent witness, such as an adjacent landholder or a village official, who could attest to her physical presence on the land. The plaintiff's claim of cultivating the land through her grandson is a self-serving statement completely devoid of evidentiary support. This is a classic example of a bare assertion without proof. If the plaintiff or her grandson were indeed cultivating the land, she could have easily produced an affidavit from the grandson, Jaypal Pendor, affidavits from neighbouring farmers, photographs of herself or her grandson on the land and bills for seeds, fertilizers, or labour. She has produced none of these.

22. In contrast, the defendants have produced a consistent and chronological series of revenue records to substantiate their claim of long-standing possession. They have filed 7/12 extracts of the suit property, which records the names of the defendants as the

occupants/cultivators of the suit land. Further, they have produced Mutation Entry No. 908 which formally records the succession of the defendants' names as the legal heirs of the deceased Shridhar Govindrao Akkalwar, who died in 1997. This mutation was carried out by the revenue authorities in due course and, as per the defendants' unchallenged pleading, was never objected to by the plaintiff. The older consolidation records (एकत्रीकरण अभिलेख) also show the name of the defendants' father, Shridhar Govindrao Akkalwar, as the person in cultivation (वहितीदार). The crop cultivation records (पीक पाहणी) in the 7/12 extracts for the years 2022-23, 2023-24, and even the current year 2024-25, show cultivation by the defendants' family. The plaintiff's name is conspicuously absent.

23. Under the Maharashtra Land Revenue Code, 1966 (MLRC), entries in the Record of Rights carry a statutory presumption of correctness. Section 157 of the MLRC provides that an entry in the Record of Rights shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor. The defendants are fortified by this statutory presumption, as the revenue records consistently reflect their possession. The burden to dislodge this presumption lies heavily upon the plaintiff. Based on the record, the plaintiff has failed to discharge this burden. Her own police complaint alleges that the defendant no. 4 tried to obstruct her entry, which points towards the existence of a dispute and a contested claim to possession, rather than an interference with established, peaceful, and settled possession. The police complaint of 03/10/2024 is not evidence of the plaintiff's possession; rather, it is a self-serving document that weakens

her own case. The plaintiff's own complaint quotes the defendants as saying, "now our name is in the 7/12". This is a direct admission by the plaintiff, recorded in her own document, that the revenue records, the primary evidence of possession are in the defendants' favour. The complaint, at best, shows that there is a dispute between the parties. An injunction is a remedy to protect settled and peaceful possession from being interfered with. It is not a tool to be used by a party to gain an advantage in a disputed situation.

24. The defendants have raised a serious challenge to the very foundation of the plaintiff's case by alleging that the Bhudan Patta of 2006 is bogus and fabricated. The plaintiff, in turn, asserts its genuineness. The determination of whether this document is genuine, whether it was validly issued, and whether it was ever legally acted upon by delivering possession, involves complex and disputed questions of fact and law. Adjudicating these issues would necessitate a full-fledged trial, involving the summoning of records from the Bhudan Yagna Mandal, recording oral evidence of the concerned officials, and allowing for cross-examination.

25. It is a well-settled legal principle that a Court should not conduct a mini-trial at the interlocutory stage. It is also a well-settled legal principle that the Court should not examine and determine complicated questions of fact and law which require a full trial. The purpose of an interlocutory order is to preserve the property in dispute in status quo. Therefore, this Court refrains from making any conclusive finding regarding the genuineness or validity of the Bhudan Patta. This issue is expressly left open to be decided on its merits at the final

hearing of the suit. For the present purpose of assessing the prima facie case, the Court must evaluate the available material concerning the actual state of possession on the ground.

26. The conduct of the party seeking the equitable relief of injunction is of paramount importance. The plaintiff's Bhudan Patta is dated 28/02/2006. The present suit has been filed on 08/10/2024, after a passage of more than 18 years. The plaintiff's own documents reveal that her first documented effort to have her name mutated in the revenue records was an application made in 2020, a delay of 14 years. This prolonged and unexplained inaction is a significant factor weighing against the grant of equitable relief.

27. Injunction is an equitable relief, and the plaintiff must approach the court with promptness. The plaintiff's deep slumber for nearly a decade and a half raises a serious adverse inference. It casts considerable doubt on her assertion that she was put in possession in 2006. A person in actual possession of a valuable piece of agricultural land would ordinarily be diligent in ensuring their rights are reflected in the public records to avoid future disputes. This delay, or laches, severely weakens the plaintiff's prima facie case. This aspect is further supported by other documents on record. The defendants have produced Mutation Entry No. 931 and Mutation Entry No. 1002, which are about other land given by the same Bhudan Yagna Mandal from the same Gat No. 125 to other parties, Santosh Murkhe (in 2017) and Anandrav Murkhe (in 2023). These allotments were successfully mutated and recorded in the 7/12 extracts. This demonstrates that the revenue machinery was indeed acting upon valid Bhudan allotments in

the same survey number during the period the plaintiff remained inactive. This fact starkly contradicts the plaintiff's vague excuse of administrative delay. The plaintiff's excuse of administrative delay is a deliberate attempt to cover up her own gross negligence and fatal delay. The defendants have placed on record Mutation Entry No. 931 and Mutation Entry No. 1002. These documents prove that the very same revenue department was successfully processing Bhudan allotments and mutating the names of other allottees (Santosh Murkhe and Anandrav Murkhe) in the very same gat no. 125 in 2021 and 2023. This demolishes the plaintiff's excuse. The system was working for genuine allottees; it did not work for the plaintiff because her claim was defective from the start, likely due to non-delivery of possession. It strongly suggests that the reason her 2006 Patta was not mutated was not due to official inaction, but more likely due to a fundamental defect in her claim, such as the non-delivery of possession, which prevented the allotment from being acted upon.

28. Furthermore, a critical issue regarding the identity of the plaintiff has emerged. The plaintiff who has filed this suit is named "Vachhala Gopal Atram (वच्चला गोपाळ आत्राम)", as is consistently mentioned in the cause title of the plaint and the verification clause. However, the Bhudan Patta dated 28/02/2006, which is the sole document of title upon which this entire suit is founded, has been issued in the name of one "Vatsalabai Gopal Atram (वत्सलाबाई गोपाळ आत्राम)." The subsequent communication from the Bhudan Mandal to the Tahsildar also refers to the allottee as "Vatsalabai Gopal Atram (वत्सलाबाई गोपाळ आत्राम)." Phonetically and orthographically, "Vachhala" and "Vatsalabai" are

distinct and different names. The plaintiff has not placed on record any material whatsoever such as an affidavit of identity, a gazette notification of a name change, or any other official document to establish that she, Vachhala, is the same person as Vatsalabai, the beneficiary named in the Patta. This is not a mere clerical error that can be overlooked at the interlocutory stage. It creates a serious and substantial doubt as to the very identity of the plaintiff and her locus standi (right to sue) based on this document. The Court cannot be expected to assume that two different names refer to the same individual. This unresolved ambiguity lends significant credence to the defendants' allegation that the Patta is bogus and fabricated or, at the very least, that the present plaintiff is not its intended beneficiary. This fundamental doubt regarding the plaintiff's identity, in and of itself, severely weakens her prima facie case.

29. Considering the documentary evidence from revenue records that favors the defendants, the legal presumption under the MLRC, the plaintiff's total lack of strong evidence of her own physical possession, her unreasonable and unexplained delay, and the significant doubt regarding her identity and locus standi, this Court finds that the plaintiff has failed to establish a prima facie case of settled possession over the suit land on the date of filing the suit. **Hence, I answer point no. 1 in negative.**

As to Point No. 2:

30. The second principle to be considered is the balance of convenience. This test requires the Court to weigh the comparative mischief or hardship which is likely to be caused to either party by

granting or refusing the injunction. The documentary evidence on record, particularly the 7/12 extracts, which are the primary record of possession for agricultural lands, clearly indicates that the defendants are the recorded possessors. This represents the existing state of affairs, or the status quo, that prevailed on the date the suit was filed. The primary object of a temporary injunction is to preserve this status quo. The plaintiff's plea for convenience based on her social status is an emotional appeal that has no place in the legal determination of this principle. The legal test is clear that the Court must preserve the status quo pending trial. The status quo, as established by all available public records, is the defendants' possession. If an injunction is granted in favour of the plaintiff, it would restrain the defendants from entering and cultivating the suit land. This would amount to the Court disturbing the status quo and, in effect, dispossessing the defendants under the guise of an interim order. Such a course of action would cause immense hardship to the defendants. Granting an injunction would mean dispossessing the defendants from land they have cultivated for decades, thereby depriving them of their livelihood without a trial. This constitutes the greatest hardship. Conversely, if the injunction is refused, the status quo is maintained. The plaintiff, who has failed to demonstrate that she is in possession, would not be dispossessed of anything. The greater hardship and mischief would undoubtedly be caused to the defendants if an injunction is granted at this stage. For the foregoing reasons, this Court finds that the balance of convenience lies squarely in favour of the defendants and against the plaintiff. **Hence, I answer point no. 2 in negative.**

As to Point No. 3:

31. The third and final principle is that of irreparable injury. This means an injury that is of such a nature that it cannot be adequately compensated by way of damages. The plaintiff must show that the refusal of an injunction would lead to a harm that cannot be reversed or remedied if she ultimately succeeds in the suit. As this Court has already reached a finding that the plaintiff has failed to establish her prima facie possession of the suit land, the question of her being dispossessed and thereby suffering an injury does not arise. One cannot be injured by being dispossessed of something they do not possess. A person not in possession cannot be dispossessed. The apprehension of obstruction, without the foundation of actual possession, is legally insufficient to warrant an injunction. Even assuming for the sake of argument that the plaintiff has a triable case on title based on her Bhudan Patta, any injury she might suffer can be quantified and compensated in monetary terms. If, after a full trial, she succeeds in proving her title and right to possession, the Court can pass a decree for possession and also grant ancillary relief of mesne profits for the period she was kept out of possession. Therefore, the refusal of an injunction at this interlocutory stage will not cause her any injury which can be termed irreparable in the eyes of the law. This Court finds that the plaintiff will not suffer any irreparable injury if the temporary injunction as prayed for is refused. **Hence, I answer point no. 3 in negative.**

As to Point No. 4:

32. The grant of a temporary injunction is an equitable and

discretionary remedy. It is not granted as a matter of right. To be entitled to this relief, the plaintiff must satisfy the Court on all three cardinal principles: (i) the establishment of a strong prima facie case, (ii) the balance of convenience tilting in her favour, and (iii) the potential for suffering irreparable injury in the absence of the injunction. In the present case, the plaintiff has demonstrably failed on all three counts. She hasn't established a strong prima facie case of settled possession, which is an absolute requirement for getting an injunction. The balance of convenience is heavily in favour of the defendants, who are the recorded possessors as per the public records. Finally, no irreparable injury will be caused to the plaintiff by the refusal of this application, as her rights, if any, can be adequately protected and compensated at the final stage of the suit. The plaintiff's claim is based on a document from 2006 which she failed to act upon for over a decade, while the defendants have consistently maintained their possession, which is reflected in the official revenue records. Equity does not favour a party who has been indolent and has slept over her alleged rights. **Resultantly, I pass following order in answer to point no. 4.**

ORDER

1. The application (exh. no. 5) is rejected.
2. Costs would follow the event.

Dictated and pronounced in open Court.

Place- Ralegaon.
Date- 28/07/2025

(U. M. Patil)
Civil Judge Junior Division,
Ralegaon.

C E R T I F I C A T E

I affirm that the contents of this PDF file Judgment/Order is same word to word as per the original Judgment/order :-

a) **Name of the Stenographer** :- R. S. Pawade,

b) **Court** :- Civil Judge Junior Division and
Judicial Magistrate First Class,
Ralegaon, Dist. Yavatmal.