

MHYA240004262025



ORDER BELOW EXH.05

1) This is an application filed by the plaintiffs seeking temporary injunction under Order-XXXIX, Rule-1 and 2 of the Code of Civil Procedure, for restraint order against defendant nos.8 and 9 against giving appointment to defendant no.1. Whereas in the suit, plaintiffs have prayed for cancellation of power of attorney dated 26/04/2024 and for its declaration as null and void and declaration of plaintiff nos.1 to 4 being heirs of deceased Parvatabai Manne, for recovery of share of compensation of acquired land alongwith the interest and for perpetual injunction for non giving appointment to defendant no.1 by defendant no.8 and 9 etc.

The case of the plaintiffs may be briefly stated as below;

2) The suit property is Gat no.260 admeasuring 1H.77R. which is located at village Shivani and plaintiff nos.1 to 4's mother namely Bayabai @ Parvatabai who died on 03/03/2025, plaintiff no.5 and defendant nos.2 to 7 were joint owners of it and it was acquired by defendant nos.8 and 9 and compensation of Rs.34,98,936/- was deposited in Special Tribunal and as per order dated 23/09/2024 that amount has been disbursed and for depositing the amount joint account in name of plaintiff nos.1 to 4's mother and other co-owners was to be opened and therefore, defendant

no.1 who is the grandson of defendant no.2 misrepresented mother of the plaintiff nos.1 to 4, plaintiff no.5 and in connivance with defendant nos.2 to 7, and obtained their thumb impression on the pretext of opening joint account. However, he got execute general power of attorney and did not read out the contents to plaintiff nos.1 to 4' mother and plaintiff no.5 and took their thumb impression on power of attorney and withdrew the share of the plaintiffs from the bank which was Rs.5,83,158/- by cheating the plaintiffs and plaintiffs had given conditional consent for appointment to the defendant no.1 in office of defendant no.8 and 9. However, as defendant nos.1 and 2 cheated plaintiff nos.1 to 4's mother and plaintiff no.5 therefore, they contend that appointment order may not be issued to the defendant no.1 till their share is paid to them. They also contend that the Police did not take any action inspite of their complaint and defendant nos.8 and 9 also did not take any action and they might issue appointment order to defendant no.1. Hence, they pray for temporary injunction.

The case of the defendant nos.1, 2, 3A, 3B, 4 to 7, may be briefly stated as below;

3) These defendants have resisted this application as well as suit vide their W.S./Say vide Exh.18/19, 51/52, 60 and contended that, there was no any misrepresentation for execution of power of attorney and substantial amount of Rs.5,50,000/- have been paid to deceased mother of

plaintiff nos.1 to 4 and defendant no.5 (plaintiff nos.5) and only Rs.33,158/- has remained to be paid and that will be paid after appointment to the defendant no.1. Moreover, in the Police statement deceased Bayabai, plaintiff no.5 and defendant nos.3 to 7 have conceded of getting the amount of Rs.5,50,000/- and this suit has been filed to extract more money. Hence, they pray for rejection of this application.

The case of the defendant nos.8 and 9, may be briefly stated as below;

4) These defendants who are offices of the W.C.L. contend vide their W.S. and Say Exh.21/23 that due to acquisition of joint property of plaintiffs and defendant nos.2 to 7, compensation has been deposited before the Tribunal and it has been disbursed in joint account of all the stake holders and all stake holders have consented for giving appointment to defendant no.1 as per Rehabilitation and Re-settlement policy and therefore, the appointment to defendant no.1 is under consideration and contend that the suit is false and pray for rejection of this application.

The case of the defendant nos.3D(1) to 3D(3) may be briefly stated as below;

5) These defendants vide their W.S. and say at Exh.56 support the case of the plaintiffs and contend that they have also not got share of their grandfather deceased defendant no.3 and they claimed their share.

6) Heard Ld.Counsel of all parties. Perused entire record. On rival pleadings, the following points arise for my determination. I have recorded my findings to those points for the reasons stated below.

Sr. No.	POINTS	FINDINGS
1)	Whether the plaintiffs are having <i>prima facie</i> case ?	Negative
2)	Whether balance of convenience lies in favour of plaintiffs ?	Negative
3)	Whether irreparable loss would be caused to the plaintiffs, if injunction is refused ?	Negative
4)	What order ?	Application is Rejected.

REASONS

As to point Nos.1 to 3:-

7) All these points are discussed together for the sake of brevity.

8) Plaintiffs have contended that defendant nos.1 and 2 have misrepresented deceased Bayabai and plaintiff no.5 and got executed power of attorney on pretext of opening of joint account for receipt of compensation amount for the acquired land and on basis of that power of attorney, defendant no.1 withdrew that amount and did not pay them their share and therefore, they opposed the appointment consideration of defendant no.1 due to this cheating.

9) Defendant nos.1, 2, 3A and 3B and defendant nos.4 to 7 have denied any misrepresentation and contended that substantial payment has been made and all had consented for appointment to the defendant no.1 and defendant no.8 and 9 opposed plaintiffs application whereas defendant no.3D(1) to 3D(3) also contend that they too did not receive the share of compensation.

10) The documents vide Exh.03 and 59 lists have been produced by plaintiffs and defendant nos.8 and 9 which contains 7/12 extract of the acquired land, death certificate of deceased Bayabai, Power of attorney dated 26/06/2024, Order of Special Tribunal dated 23/09/2024, copy of police complaint dated 07/04/2025, joint account statement of UCO Bank, Joint application of plaintiffs deceased defendant no.3 to W.C.L. opposing appointment consideration of defendant no.1 and the option form and consent form of all stake holders for appointment to defendant no.1.

11) The pleadings of the plaintiffs reveals that they do not dispute giving consent for appointment to defendant no.1 as per Re-settlement and Rehabilitation policy. However, they contend that that was conditional consent and due to non payment of their share they are withdrawing it.

12) The principle grievance of the plaintiffs is purported non payment of their share and i.e. one of their prayer and

the principle grievance is not about receiving consent for appointment to the defendant no.1 by misrepresentation and deception.

13) The alleged misrepresentation is to deceased mother of the plaintiff nos.1 to 4 and plaintiff no.5 and defendant no.3. However, mother of the plaintiff nos.1 to 4 has died along with defendant no.3 and it is only plaintiff no.5 who still contends that there was misrepresentation about power of attorney.

14) The perusal of the documents further reveals that all stake holders have consented for the appointment to defendant no.1 and perusal of challenged power of attorney reveals that deceased defendant no.3 and defendant no.2 were empowered for banking transactions by deceased Bayabai, plaintiff no.5 and defendant nos.4 to 7. Defendant no.1 was not empowered by this power of attorney.

15) Moreover, perusal of the police complaint which was filed by plaintiff no.5 and defendant no.5 against defendant no.1 reveal that there is allegations of taking thumb impression of defendant no.2 by defendant no.1 by exploiting her illness. However, that complaint does not dispute the execution of power of attorney. These aspect reveals deviation in the stance of the plaintiffs.

16) The question of whether substantial amount was paid or not to all stake holder would be tried in the suit. However, till adjudication of that, stalling appointment of

defendant no.1 would be unjust as there is consent for his appointment from all stake holders.

17) The counsel of the defendant nos.1, 2, 4 to 7 have cited case law;

1) **Shrawan Namdeo Paspute and ors. Vs. Western Coalfields Ltd. Ballarpur Area, Rajura Dist.Chandrapur and Ors. Writ Petition No.1748/2025 dated 11 December 2025 by Hon'ble Bombay High Court bench at Nagpur.**

18) In this case the Hon'ble High Court has inter alia held that only due to pendency of the Civil Suit regarding share in the compensation or challenge to appointment, the concerned department shall not reject the proposal for appointment.

19) In the present case also there is no direct denial of non giving consent to the appointment and the principle grievance is non payment of share of compensation.

20) Moreover, for the reasons noted above plaintiffs, have also failed to prove key essential ingredients for grant of temporary injunction and grant of T.I. will cause greater hardship and greater inconvenience to defendant no.1.

21) Hence, I answer point Nos.1 to 3 in the Negative.

As to point No.4:-

22) Hence, in view of findings recorded to point Nos.1 to 3, plaintiffs are not entitled for relief of temporary injunction as prayed for. Hence, in answer to point No.4,

following order is passed.

ORDER

- 1) The application (Exh.05) is hereby rejected.
- 2) Earlier status-quo order stands vacated.
- 3) Costs in cause.

Date : 29.04.2026

(P. S. Jondhale)
Civil Judge (Sr. Dn.),
Wani.