

ORDER PASSED ON 24/12/2025

The plaintiff has filed an application for grant of ex-parte ad interim temporary injunction restraining defendants from causing any obstruction over survey no.6/2/1 of plot no.40 admeasuring 236.24sq.m. situated at village Kharadi Tal. Haveli, Dist. Pune. (Hereinafter referred as suit property)

2. Facts of plaintiff's case in nut-shell -

Originally the suit property owned by Laxman Sakharam Kondre and his family. Thereafter, the said family had executed the power of attorney in favour of Mr. Mohamad Ali Hasan Menon. On 01/11/2019 Amjad Riyaj Sayyed sold his suit property to Mr. Bapu Vasant Pathare and Smt. Geeta Pardeshi by way of registered sale deed 5496/2019. They have applied for mutation entry but defendant no.1 raised the objection. After considering all aspect circle officer rejected the claim of defendant no.1. Accordingly, their names were mutated on the revenue record. Thereafter, by way of registered sale deed 26769/2024 dated 20.12.2024 Bapu Vasant Pathare and Smt. Geeta Raju Pardeshi sold the suit property to the plaintiff. By way of mutation entry his name is mutated on record.

3. Defendant no.1 and 2 taking the advantage of false and frivolous sale deed dated 23.12.2006 bearing no.8093/2010. But these defendants having no title over the suit property. On the contrary, it appears that, the claim of defendant no.1 in respect of plot no.40B of survey no.6/2

admeasuring 0.215R not the suit property.

4. In the year 2022, Babu Vasant Pathare and Smt. Geeta Pardeshi have applied for demarcation of the suit property and they obtained the permission of N.A. from Tahsil office, Haveli. On 09.10.2025 defendant no.1 along with his father have threatened the plaintiff. Thereafter, on 30.11.2025, they have tried to disturb the peaceful possession of the plaintiff over the suit property.

5. Perused the application and documents filed along with it. The following points arises for my determination and I recorded my findings with reasons thereon.

Sr.No.	Points	Findings
1.	Whether the plaintiff is entitled for grant of ex-parte ad- interim temporary injunction?	No.
2.	What order ?	As per final order.

REASONS FOR THE FINDING

6. **Point No.1** - Perused the application and documents filed along with it. Heard the learned advocate for the plaintiff. On the perusal of the document of registered sale deed 14304/2018 executed in favour of Amjad Riyaj Sayyed by Sopan Kodre and his family in respect of S.No.6/2/1, admeasuring 236.24sq.m. of village Kharadi, Tal. Haveli, Dist. Pune. But the said sale deed does not specify the plot number. Thereafter, the said property purchased by Mr. Babu Pathare and Smt. Geeta Pardeshi by way of registered sale 5496/2019, dated 01/11/2019. On the basis of which names

of Mr. Bapu Pathare and Smt. Geeta Pardeshi mutated on revenue record. Amjad Riyaj Sayyed acquired the right over S.No.6/2/1 while taking the mutation entry does not specify the plot number.

7. The sale deed executed in favour of Mr. Bapu Pathare and Smt. Geeta Pardeshi also disclosed that it silent regarding which plot number has been sold by Mr. Amjad Riyaj Sayyed to them.

8. Defendant no.1 is also claiming the right over the suit property. It is pertinent to note that, when the public notice dated 18.10.2024 issued it is also not specified which plot kept for selling. Therefore, it appears that since beginning the plot number was not identified. Similarly the last registered sale deed 26769/2024 dated 20th December, 2024 on the basis on which the plaintiff claimed his right over the suit property does not specified the plot number as claimed in the suit property.

9. In **Morgan Stanley Mutual Fund Vs. Kartick Das 1994 AIR SCW 2801**. The Hon'ble Apex Court held that ex-parte injunction could be granted only under exceptional circumstances. The factors which should weigh with the court in the grant of ex-parte injunction. "As a principle, ex-parte injunction could be granted only under exceptional circumstances. The factors which should weigh with the Court in the grant of ex parte injunction are:

"(a) where irreparable or serious mischief will ensue to the plaintiff;

(b) whether the refusal of ex parte injunction would involve greater injustice than the grant of it would involve;

(c) the court will also consider the time at which the plaintiff first had notice of the act complained so that the making of improper order against a party in his absence is prevented

- (d) the court will consider whether the plaintiff had acquiesced for some time and in such circumstances it will not grant ex parte injunction;
- (e) the court would expect a party applying for an ex parte injunction to show utmost good faith in making the application;
- (f) even if granted, the ex parte injunction would be for a limited period of time;
- (g) General principles like prima facie case, balance of convenience and irrefutable loss would also be considered by the court.”

10. In the present case in hand when the claim of the plaintiff and defendants over the suit property on the basis of their respective sale deed. It is pertinent to note that mere mutation entry does not confirm any right over the suit property. Though the plaintiff claimed that he is in possession over the suit property. The registered sale deed relied by the plaintiff regarding the claim of defendants also shows that defendants are also in possession. Therefore, considering to the dispute of possession and the claim of the plaintiff.

- “(a) no irreparable or serious mischief will ensue to the plaintiff;
- (b) the refusal of ex parte injunction would involve no greater hardship or injustice than the grant of it would involve; Therefore, it is not the fit case to allow the application. Hence, I proceed to pass the following order.

ORDER

Application is rejected.

Place:- Pune
Date:- 24/12/2025

Sd/-
(**N.R. Gajbhiye**)
I/C. 18th Jt.Civil Judge, S.D., Pune.