

**IN THE COURT OF THE CIVIL JUDGE (SENIOR DIVISION),
KHALLIKOTE, DISTRICT-GANJAM.**

Present: Ms. Arundhati Acharya,
Civil Judge (Senior Division)
Khallikote,

Dated this the 12th day of August, 2026.

I.A No. 15 of 2026
(Arising out of C.S. No.211 of 2026)

Tofan Dalei, aged about 54 years,
S/o-Bhima Dalai,
Village-Totagaon, P.O.-Balukeswarpur,
Police Station-Khallikote,
District-Ganjam.

At present:

Village-Nuaphasula, P.O.-Shyamsundarpur,
Police Station-Khallikote,
District-Ganjam.

..... Petitioner/Plaintiff.

- Versus -

Smt. Sujata Pahan, aged about 23 years,
W/o-Pradeep Dalei,
Village-Totagaon, P.O.-Balukeswarpur,
Police Station-Khallikote,
District-Ganjam.

..... Opposite Party/Defendant No.1.

For the Petitioner/Plaintiff.	: Shri Sanjaya Kumar Panigrahi, Advocate, Khallikote.
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For the Opposite Party/ Defendant No.1.	: Ex-parte.
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Date of argument : 06.8.2026.

Date of order : 12.8.2026.

ORDER

By means of this Interim Application (hereinafter in short called I.A. for brevity), the Petitioner being the Plaintiff in C.S. No. 211 of 2026 seeks the grant of an ad-interim injunction restraining the Opposite Party from disturbing the peaceful possession/enjoyment of the Petitioner over the suit scheduled properties in any manner till disposal of the suit.

2. The factual matrix giving rise to the I.A. may be stated thus:

Since the pleadings in the Plaint forms part of the I.A., on perusal of the pleadings averred in the Plaint it reveals that the Petitioner being the Plaintiff filed the C.S. No.211 of 2026, inter alia, praying for declaration of his right, title, interest and possession over the suit scheduled properties along with the prayer restraining the Defendants from entering upon or interfering with his peaceful possession over the suit scheduled properties besides the cost of the suit.

According to the petitioner, the suit scheduled properties pertaining to Khata No.313/237, Plot No.1995/ 2900/2990 to an extent of Ac.0.007 decimals, Plot No.1993/2901/2991 to an extent of Ac.0.080 decimals and Plot No.1994/2902/2992 to an extent of Ac.0.037 decimals, in total Ac.0.124 decimals of Mouza-Phasula under Khallikote Tahasil in Ganjam District is the self-acquired properties of the Plaintiff which he purchased from Manmohan Majhi under Registered Sale Deed bearing Document No.100661801039 of 2018 dated 14.5.2018 of the Office of the Sub-Registrar, Khallikote and on the very day the vendor of the Plaintiff handed over the possession of the suit scheduled Properties to him. Since then, the Plaintiff has been possessing the suit scheduled properties by constructing dwelling house over the same. After purchasing the suit scheduled properties the Plaintiff mutated the same in his favour and accordingly ROR has been issued. On 09.5.2025 the elder son of the Plaintiff namely Pradeep Dalei got married to Sujata Pahan (Defendant No.1/Opposite Party) and after marriage they resided in the ancestral house of the Plaintiff at Totagaon. After three months of marriage the son of the Plaintiff namely Pradeep Dalei went to Saudi Arabia for his livelihood and the Opposite Party had been to her parent's house at Longhare and resided there. The Defendant No.1/Opposite Party in the month of January, 2026 requested the Plaintiff/Petitioner to return to the matrimonial house to remain with them. Under pretext that the house of Totagaon is very old she assured that she would move to the ancestral house at Totagaon after arrival of her husband from Saudi Arabia. Considering the request of the

Defendant No.1/Opposite Party, the Plaintiff permitted her to reside in Nua Phasula along with them. The Defendant No.1/Opposite Party sometime resides with the Plaintiff and sometimes in her parents' house. During her stay in the house of the Plaintiff, they came to know that the Defendant No.1/Opposite Party has been interacting with unknown persons over phone throughout the night and also invited them to their house. When the Plaintiff objected the conduct of the Defendant No.1/Opposite Party, she started disturbances. On 24.02.2026 the Defendant No.1/Opposite Party abused the wife of the Plaintiff in filthy language and manhandled her as a result of which she became senseless, about which the Plaintiff reported before the Police on 25.02.2026. The Defendant No.1/Opposite Party went to her parents' house at Longhare and returned to the house of the Plaintiff on "Raja Sankranti". Having returned she again started disturbances in the said house. On 27.6.2026 night when the Plaintiff along with his wife fell asleep, the Defendant No.1/Opposite Party took away cash of Rs.35,000/-, one 10-gram gold chain, one 5-gram gold necklace and one mobile phone from their house. The Opposite Party used to threaten the Plaintiff for transfer the suit scheduled properties in her name or else she would kill the Plaintiff and his wife. She also called her parents and relatives to create trouble in their house and she would commit suicide and keep implicating the Plaintiff and his family members responsible for any eventuality for which on 25.6.2026 the Plaintiff/Petitioner lodged FIR regarding the physical and verbal abuse of the Opposite Party to the wife of the Plaintiff and files a complaint case bearing 1C.C. No.9 of 2026 which is sub-judice before the Court

of learned JMFC, Khallikote. The Defendant No.1 /Opposite Party in connivance with the Defendant Nos.2 to 6 have been trying to dispossess the Plaintiff from the suit scheduled properties as well as intends to kill him and forcibly to take possession of the suit scheduled properties who is residing at Village-Totagaon in the Plaintiff's ancestral house. Being aggrieved by the conduct of the Defendant No.1/Opposite Party, the Plaintiff/Petitioner went to Khallikote Police Station but it being a litigation of civil nature the police personnel advised him to take shelter before the Civil Courts.

It is further pleaded that the Petitioner there is a strong Prima Facie case so also Balance of Convenience tilts in his favour and unless the Opposite party is restrained by an order of injunction; he would suffer irreparable injury which cannot be compensated in terms of money. According to the Petitioner, he has an arguable claim to be adjudicated in the suit and unless restrained the Opposite Party would otherwise get encouraged to dispossess him from the suit scheduled properties and hence the I.A. under Order-XXXIX, Rule-1 & 2 of C.P.C. to restrain the Opposite Party from dispossessing the Petitioner from suit scheduled properties.

3. As the notice sent by the Court to the Opposite Party returned with endorsement "refused", the service of notice on the above Opposite party is held to be sufficient and as she did not come forward with any objection by appearance it was presumed that she

has no defence to submit. Be that as it may, for her none appearance on the date fixed either in person or through counsel she was set ex-parte vide order No.2 dated 01.8.2026.

4. Heard, the contentions of the petitioner. Perused the case record.

In the matter of ***Maria Margarida Sequeira Fernandes & Ors. v. Erasmo Jack De Sequeira (Dead) through LRs***⁸ was examining the question of 7 (2004) 1 SCC 769 8 (2012) 5 SCC 370 it was held as under:

“83. Grant or refusal of an injunction in a civil suit is the most important stage in the civil trial. Due care, caution, diligence and attention must be bestowed by the judicial officers and Judges while granting or refusing injunction. In most cases, the fate of the case is decided by grant or refusal of an injunction. Experience has shown that once an injunction is granted, getting it vacated would become a nightmare for the defendant. xx xx

Further, in **Deoraj vs. State of Maharashtra and Others [(2004) 4 SCC 697]** the Hon’ble Supreme Court opined as follows:

“12. Situations emerge where the granting of an interim relief would tantamount to granting the final relief itself. And then there may be converse cases where withholding of an interim relief would tantamount to dismissal of the main petition itself; for, by the time the main matter comes up for hearing there would be nothing left to be allowed as relief to the petitioner though all the findings may be in his favour. In such cases the availability of a very strong prima facie case of a standard much higher than just prima facie case, the considerations of balance of convenience and irreparable injury forcefully tilting the balance of the case totally in favour of the applicant may persuade the court to grant an interim relief though it amounts to granting the final relief itself. Of course, such would be rare and exceptional cases. The

court would grant such an interim relief only if satisfied that withholding of it would prick the conscience of the court and do violence to the sense of justice, resulting in injustice being perpetuated throughout the hearing, and at the end the court would not be able to vindicate the cause of justice. Obviously such would be rare cases accompanied by compelling circumstances, where the injury complained of is immediate and pressing and would cause extreme hardship. The conduct of the parties shall also have to be seen and the court may put the parties on such terms as may be prudent."

5. On the touchstone of the principles above referred when the case in hand is examined it emerges that the basic requirement claiming the right, title and possession stands in favour of the Plaintiff/Petitioner. As reveals, the plaintiff has purchased the suit scheduled properties from Mana Mohan Majhi under a Registered Sale Deed bearing Document No.10661801039 and got the same mutated in his favour by which the procedure requires the consent of the vendor for transfer of the land sold in favour of the vendee and accordingly the ROR of the suit scheduled properties stands in his name. The Petitioner is also possessing the same by paying land revenue to the Government. The Petitioner / Plaintiff has filed the Original Registered Sale Deed, Original R.O.R. to substantiate his claim. Per contra, the Opposite Party has been set ex-parte for which the contention of the Petitioner/Plaintiff remained uncontroverted. Keeping in view the above and the fact that the Plaintiff/Petitioner is the owner of his self-acquired property and is in lawful possession which is under threat, this court is of the view

that the Petitioner has well made out a *Prima Facie case* in his favour and there is issues that requires adjudication to be decided in the trial.

6. **BALANCE OF CONVIENCE AND IRREPARABLE LOSS:**

So far as balance of convenience and irreparable injury is concerned, the Court must be satisfied that the comparative mischief, hardship or inconvenience which is likely to be caused to the Petitioner by refusing the injunction will be greater than that of the Opposite party who has already divested the same in favour of the Plaintiff/Petitioner by way of a registered conveyance for consideration. In the instant case, the Plaintiff/Petitioner has filed the suit for declaration and permanent injunction against the Opposite Party from entering upon and interfering with his peaceful possession over the suit land. From the contention of the Petitioner, it appears that, the Petitioner is the owner of the suit land being in possession thereof and the opposite party has no right to encroach any portion of the suit land. If the opposite party shall not be restrained from entering upon and/or interfering with the suit land, the Petitioner will have to face lots of hazards owing to his depravation from the said land on which he is having a legitimate legal right. On the other hand, the Opposite Party has been set ex-parte and have not averred anything to show that the grant of ad-interim order of injunction would in any way cause irreparable loss to her and as such *balance of convenience* leans in favour of the Plaintiff/Petitioner.

In view of the discussions as above this court is of the view that, the injury likely to be caused to the Petitioner by refusing the injunction is a material one which cannot be adequately compensated by way of damages and further, the main purpose of interim order being one to protect the 'lis' so as to prevent future injury to any party the injury seems to be *irreparable* in case of the Plaintiff/Petitioner. Hence, it is ordered: -

ORDER

The I.A be and the same is allowed ex-parte against the Opposite Party but in the circumstances, without cost. The Opposite Party is interimly restrained from entering upon or interfering with the peaceful possession of the Petitioner/Plaintiff over the suit lands till disposal of the suit.

With the above orders the Interim Application-15/2026 is disposed of.

Civil Judge (Senior Division)
Khallikote.

The I.A order is typed out to my dictation by the stenographer attached to this court directly in the computer, corrected and pronounced by me in the open Court today i.e. on 12th day of August, 2026 under my seal and signature below.

Civil Judge (Senior Division)
Khallikote.

List of witnesses examined for the Petitioner/Plaintiff:

None.

List of documents admitted into evidence for the Petitioner/ Plaintiff:

Nil.

List of witnesses examined for the Opposite Party /Defendant No.1:

None.

**List of documents admitted into evidence for the Opposite Party/
Defendant No.1:**

Nil.

**Civil Judge (Senior Division),
Khallikote.**