

CNR NO.MHLA040004802025 	Presented on	:	11.12.2025
	Registered on	:	12.12.2025
	Decided on	:	31.07.2026
	Duration	:	00 Y 07 M 20 D

**IN THE COURT OF DISTRICT JUDGE - 1, AHMEDPUR,
DIST - LATUR**

(Presided over by P. K. Nardele)

**Misc. Civil Appeal No.14/2025
Exh.15**

- 1) Shahin W/o. Firoj Pinjari,
Age : 26 years, Occu. Household work,
- 2) Raheman S/o. Khajasab Shaikh,
Age: 69 years, Occu.: Labour,
- 3) Chandbibi W/o. Mainoddin Pinjari,
Age: 49 years, Occu.: Household work,
All R/o. Kekatsindgi, Tq. Jalkot, Dist Latur
- 4) Hamidabee W/o. Yasin Shaikh,
Age: 57 years, Occu.: Household work,
R/o. Wadhawana Kh. Tq. Udgir, Dist. Latur,
- 5) Juber S/o. Khajsab Shaikh,
Age: 42 years, Occu.: Business,
R/o. Kingaon, Tq. Ahmedpur, Dist. Latur
- 6) Feroj S/o. Mainoddin Pinjari,
Age: 30 years, Occu.: Driver,
R/o. Kekatsindgri, Tq. Jalkot, Dist. Latur

...Appellants
(Ori. Def.1 to 5 & 7)

VERSUS

- 1) Magdum S/o. Khajasab Shaikh,
Age: 62 years, Occu.: Business,
- 2) Venubai W/o. Santram Dahiphale,

Age: 50 years, Occu.: Household work,
Both R/o. Kingaon, Tq. Ahmedpur, Dist. Latur

...Respondents
**(Resp. No.1 is Ori. Plaintiff &
Resp. No.2 is Ori. def. No.6)**

Mr.D.L.Ghogre, Learned advocate for appellant.
Adv. V.A.Sonkamble for respondent No.1
Respondent No.2 proforma party.

J U D G M E N T
(Delivered on 31.07.2026)

Being aggrieved by the order passed by the learned Civil Judge, Senior Division, Ahmedpur, below Exh.58 in RCS No.26/2021, the appellants (original defendants) have preferred the present appeal against respondent No.1 (original plaintiff), whereas respondent No.2 is the proforma party.

The appellants' case in a nutshell is as follows.

02) Respondent No.1 filed Civil Suit No.26/2021 against the appellants, seeking to declare the heirship certificate granted to appellant No.1 in Miscellaneous Civil Application No.557/2021 as illegal and to set aside the mutation entries. He also sought an injunction. He claimed that the appellants had no concern with his deceased sister, Jamilabee Khajasab Shaikh, and that appellant No.1 obtained the heirship certificate by suppressing facts. Her name was mutated over land Survey No.261/1, Gram Panchayat house Nos.1656 and 1821, despite him being in possession of the said properties.

03) According to him, he had purchased the property

bearing Gram Panchayat No.1656 Adm. 33 x 33 feet from the deceased Jamilabee by paying Rs.50,000/- to her in cash. Not only this, another suit property, i.e., the house bearing Gram Panchayat No.1821, new Gram Panchayat Property No.1594, i.e., plot No.84/2 out of land Gat No.261/1, was given to him by Jamilabee as oral Hibba in the presence of witnesses Dnyanoba Bodkhe, Sayyad Husen Aajamsab, and deceased Khajasab. Since then, he has been occupying the said property, Gram Panchayat House No.1821, without any obstruction or interference. The respondent No.1's further case before the learned trial Court is that appellant No.1 and appellant No.5, by joining hands, transferred the property bearing Gram Panchayat No.1883/37 Adm. 1089 Sq. feet. out of land Gat No.261/1 to one Venubai Dahiphale, i.e., respondent No.2. According to respondent No.1, the suit property, i.e., house No.1594 (old house No.1821), is still in the name of his father. According to him, there was an oral partition of the family properties among his family members. After that, appellant No.2 sold his share of the property to one Dnyanoba Mauli, whereas the legal heirs of appellant No.5 sold their share to Dnyanoba Mauli. The property allotted to his share is given as Gram Panchayat House No.1820 Adm. 259.2 Sq. feet. Appellant No.1 obtained a false heirship certificate and got her name mutated in the record of the Gram Panchayat House No.1594 (old No.1821) out of land Gat No.261/1. Now, the appellants intend to sell the said property to a third party.

04) According to respondent No.1, his sister orally gifted him the property. However, appellant No.5 has built on it, with a 4.3-foot-wide lane between his construction and his

property. If the appellants transfer the property to a third party, it could cause complications and harm him. Appellant No.5 is in debt and may sell house No.1594 (old No.1821). Also, appellants No.1 and 7 assist appellant No.5, so they must be restrained from selling the property.

05) The appellants, i.e the defendants in the trial Court, objected to the temporary injunction application, claiming that it is not maintainable. The application Exh.5 by respondent No.1 was rejected after appreciating all material, and the order has become final. They argued that the heirship certificate issued by the learned Civil Judge Junior Division confirmed the appellant No.1 as the sole legal heir of Jamilabee Khajasab Shaikh. They further stated that the respondent No.1 has no interest in the suit properties. They contended that appellant No.1 is the deceased's legal heir, and the claims in the plaint and application Exh.58 are false and misleading. They asserted that no case was made for granting the injunction and that the mutation entries based on the heirship certificate are legal. They ultimately requested the rejection of the application.

06) The record shows that, the learned trial Court vide its order dated 20.11.2025 passed below Exh.58 allowed the application filed by the respondent No.1 restraining the present appellant No.1, 5 and 6 from creating any sort of third party interest over the suit property having Gram Panchayat House No.1594 (old house No.1821) i.e. plot No.84/2 situated in land Gat No.261/1 of Kingaon. It is the said order which is assailed by the present appellants.

07) The learned Advocate for the appellants vehemently submits that the learned trial Court ignored the material on record, arrived at an erroneous conclusion, and allowed the application Exh.58 for the grant of a temporary injunction. In fact, the respondent No.1 had no right to file the application Exh.58. The order passed by the learned trial Court failed to consider the non-existence of a prima facie case, the balance of convenience, and irreparable loss. Even then, the learned trial Court granted a temporary injunction by allowing the application Exh.58. The respondent No.1 has no concern whatsoever with the suit property in respect of which the temporary injunction was granted. Lastly, the learned Advocate for the appellants prayed that the appeal be allowed and the order dated 20.11.2025 passed below Exh.58 be set aside.

08) Per contra, the learned Advocate for the respondent No.1 submits that the learned trial Court had properly appreciated the material on record. The learned trial Court had specifically observed that one suit property has already been alienated by the appellants. Moreover, the learned trial Court observed that it is necessary to preserve the suit property till the adjudication of the dispute. The learned trial Court had considered the three essential ingredients necessary to grant a temporary injunction in favour of the respondent No.1. He further submits that there is no perversity or illegality in the order passed below Exh.58. He lastly prays to dismiss the appeal.

09) The following points arise for my determination, and I have recorded my findings against them for the reasons mentioned thereunder.

	<u>POINTS</u>		<u>FINDINGS</u>
1)	Whether the respondent No.1 had made out the three essential ingredients necessary to grant temporary injunction in his favour i.e. prima facie case, balance of convenience and irreparable loss?	:	Yes.
2)	Whether the order dated 20.11.2025 passed by the learned trial Court in favour of the respondent No.1 requires interference?	:	No.
3)	What Order?	:	Appeal stands dismissed as per final order.

REASONS

AS TO POINT NO.1 TO 3:-

10) As already noted, the present Miscellaneous Civil Appeal is filed by the appellants, who were the original defendants before the learned trial Court in RCS No.26/2021. The respondent No.1 is the plaintiff before the learned trial Court. He challenged the legal heirship certificate issued in favour of the present appellant No.1. His case is that the suit property, i.e., the house having Gram Panchayat Property No.1594 (old property No.1821), i.e., plot No.84/2, situated in land Gat No.261/1 of Kingaon, and the property having Gram Panchayat property No.1883/37, situated in land Gat No.261/1 of Kingaon, belong to him, and the present appellant No.1 obtained a heirship certificate by suppressing facts and misleading the Court.

11) Not only this, at the time of filing the application

Exh.58, his contention was that the present appellant Nos. 1 and 5 had already executed a sale deed of the said property in favour of one Venubai Dahiphale, i.e., the respondent No. 2. His further contention is that the appellant Nos. 1, 5 and 6 are likely to alienate and create a third-party interest over the property having Gram Panchayat No. 1594 (old house No. 1821), i.e., plot No. 84/2, situated in land Gat No. 261/1 of Kingaon.

12) Admittedly, the appellants have denied the contention of respondent No.1 in their reply to the application as well as in their written statement, Exh.19. However, a minute perusal of the entire reply filed by the present appellants nowhere shows that they have denied the contention of respondent No.1 that they had sold out certain portion of the suit properties to the present respondent No.2 by way of a sale deed. Not only this, the perusal of the record shows that the appellants have nowhere denied that they don't intend to alienate the suit property, i.e., the house bearing Garm Panchayat No.1594 (old house No.1821, i.e., plot No.84/2 of land Gat No.261/1).

13) Besides this, I find considerable substance in the contention of the learned Advocate for respondent No.1 that if the appellants, or either of them, succeed in creating a third-party interest over the above-mentioned property, the very purpose of filing the suit would be frustrated. I also find considerable substance in the submissions of the learned Advocate for respondent No.1 that if appellants No.1, 5 and 6 are restrained from creating a third-party interest over the said property till the decision of the suit, no prejudice would be caused, as the subject matter of the lis will be preserved.

14) As far as the contention of the learned Advocate for the appellants that the legal heirship certificate was properly issued by the Court of learned Civil Judge, Junior Division, in Miscellaneous Civil Application No. 557/2021 is concerned, in my view, whether the heirship certificate was legally and properly issued, and whether appellant No. 1 is indeed the sole legal heir of Jamilabee, are facts in issue before the learned trial Court. The parties to the lis will have an opportunity to prove their respective contentions by leading evidence in support of their respective cases. However, that stage is yet to come. At this moment, this Court, while deciding the present appeal, is concerned with whether it is necessary to grant the temporary injunction against the present appellant Nos. 1, 5 and 6.

15) Since the appellant Nos.1, 5 and 6 have already alienated a portion of the suit properties, which are the subject matter of the suit pending before the learned trial Court, i.e., RCS No.26/2021, I find that the apprehension in the mind of the respondent No.1 that the suit will become infructuous if the appellant Nos.1, 5 and 6 succeed in alienating the suit property, i.e., Gram Panchayat House No.1594 (old house No.1821), i.e., Plot No.84/2 situated in land Gat No.261/1, is well-founded. In that event, the very purpose of filing the suit will be frustrated, and he will have to run from pillar to post to enjoy the fruits in the event he succeeds in proving his case. On the contrary, no such prejudice will be caused if the appellant Nos.1, 5 and 6 are restrained till the decision of the suit from creating any third-party interest of whatsoever nature over the above-mentioned suit property. Having said so, I hold that the respondent No.1 has

made out the three essential ingredients necessary to grant a temporary injunction against the appellant Nos.1, 5 and 6.

16) As far as the learned Advocate for the appellants' submission that the previous application Exh. 05, filed by respondent no. 1 on similar grounds, has been rejected is concerned, the perusal of the documents produced on record reveals that the present respondent no. 1 had filed an application below Exh. 05 in RCS No. 26/2021. It was rejected vide order dated 22.08.2022. However, the documents produced on record by respondent no. 1 show that after the rejection of application Exh. 5, certain developments have taken place. The present appellant no. 1 had sold a portion of the suit property, i.e., property having Grampanchayat No. 1883/137, on 20.09.2022. If this fact is considered, there is a change in circumstances, and the application Exh. 58 filed by respondent no. 1, in view of the change of circumstances, is maintainable.

17) A perusal of the order passed by the learned trial Court below, Exh.58, in RCS No.26/2021 on 20.11.2025, reveals that the learned trial Court had properly appreciated the facts of the case and the documents placed before it. After considering the requirements for granting a temporary injunction, the learned trial Court properly concluded that the present appellants Nos.1, 5 and 6 need to be restrained from creating a third-party interest till the decision of the suit. There is no illegality or perversity in the order passed by the learned trial Court. That being so, no interference is required by this Court in the order passed by the learned trial Court. Consequently, for the aforementioned discussion, I hold that the appeal is liable to be dismissed, and

accordingly pass the following order in answer to point No.3.

ORDER

1)	The appeal stands dismissed.
2)	Copy of this order be sent to the learned trial Court for being placed in Regular Civil Suit No.26/2021 i.e. Makdum Vs. Shahin and Ors.
Judgment dictated and pronounced in Open Court.	

Date: 31.07.2026

(P. K. Nardele)
District Judge-1, Ahmedpur

C E R T I F I C A T E

I affirmed that, the contents of this PDF file Judgment are same word as per original Judgment.

Name of Stenographer : A. S. Kodgire (Grade-II)
Court name : District Court-1,Ahmedpur
Date of decision : 31.07.2026
Judgment signed by P.O. on : 31.07.2026
Judgment uploaded on : 31.07.2026
