



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

935 WRIT PETITION NO. 11878 OF 2025

AMBADAS TUKARAM JADHAV AND OTHERS
VERSUS
UTTAM TUKARAM JADHAV AND OTHERS

...
Advocate for the Petitioner : Mr. Chavan Sudhir K.
AGP for Respondents 2 & 3 : Mr. Rajdeep D. Raut
...

CORAM : ARUN R. PEDNEKER, J.

Dated : September 30, 2025

PER COURT :-

1. Heard the learned counsel for the petitioners/defendants. The learned counsel for the petitioners/defendants submits that prayer made the earlier suit filed by the plaintiff/respondents bearing RCS No. 195/2022 relates to ownership, possession and injunction in which prayer is made as under:-

"1] It is therefore most respectfully prayed that, the Temporary Injunction may kindly be granted to the plaintiff and against defendant No. 1 to 4 in this way that :-

(A) Defendants 1 to 4 may be restrained from obstructing the peaceful possession and enjoyment over the suit land gat No. 348 total area 01 H 62 R (81 R + 81 R) within the boundaries as shown in the sale deeds bearing No. 3211 and 3210 for the purpose of compromise decree of the suit bearing No. 209/2021 dated 02.09.2021.

(B) So also, defendants are necessary to be restrained from selling the above land gat No. 348 in favour of third parties by them and or by their representatives, power of attorneys etc.

2] That the defendant No. 2 may be restrained from obstructing the possessin of the plaintiff over suit land gat No. 349 of area 28 R within the boundaries shown in the claim clause and in the compromise decree of the court

dated 02.09.2021 and so also restraining the said defendant No. 2 from selling that suit land till the final disposal of the pending suit and to meet the ends of justice, equity and good conscience.”

2. The learned counsel submits that subsequent suit bearing RCS No. 61/2025 is filed for recovery of possession, in which prayers are made as under :-

“It is therefore prayed that, suit of the plaintiff may kindly be decreed with cost for.

Recovery of possession which is illegally encroached by the defendant no. 1 to 5 in respect of land Gat no. 348, Adm. 02H. 41R., with pot Kharat 02R. To the extent of 0H.80R. L.R. Rs.4.56 ps. Situated at village Brahmapuri Tarfe Pathri Tq. and Dist. Parbhani The boundaries of the said suit properties as under,

East :	Land of Ambadas Tukaram Jadhav
West :	Land of Uttam Tukaram Jadhav
South :	Land of Mahebob Mohiyoddin
North :	Land of Kondiba Nivrutt

The Mandatory direction against the defendants No. 6 and 7 directing the defendant no. 7 to measure the land which illegally encroached over 20R land by defendant no 1 to 6 in respect of land Gat no.348, Adm. 02H.41R, with pot kharab 02R. to the extent of 0H.81R. L.R. Rs.4.56ps. Situated at village Brahmapuri Tarfe Pathri Tq. & Dist. Parbhani. The boundaries of the said properties as **per Gift deed bearing no 1667/2024 they as under,**

East ::	Land of Ambadas Tukaram Ladhav
West ::	Land of Uttam Tukaram Jadhav
South ::	Land of Mahebob Mohiyoddin
North ::	Land of Kondiba Nivrutt

3. Issue the perpetual injunction restraining the defendant no. 1 to 5 & his agents or any one claiming on behalf of that they should not cause any sort of obstruction & interference into the peaceful possession of plaintiff in respect of suit property in the claim clause-1.”

3. The learned counsel submits that without granting prayer made in the earlier suit, similar prayer cannot be made in subsequent suit and therefore, the subsequent suit may be stayed.

4. In para No. 16 of the plaint in second suit bearing RCS No. 61/2025 in respect of cause of action, it is noted as under :-

"16. That, lastly on 20/02/2025 the plaintiff, along with his brother Maroti Tukaram Jadhav & other two people approached to the defendant 1 to 5 and requested defendants to vacate the illegally encroachment area of the suit property but the defendants flatly refused to do so. Hence, above said date of denial constitute the cause of action arose to file the present suit against the defendant."

5. In the first suit the petitioner has stated that he is in possession of the suit property. However, in the subsequent suit he has stated that he has lost possession during the pendency of the first suit and accordingly second suit is filed for recovery of possession taken forcibly by the defendant. Considering that both the suits are for different cause of action, the second suit cannot be stayed for outcome of first suit. Hence, I find no error in the impugned order in the pending proceedings.

6. With the above observations, the writ petition is dismissed. The observations made above are prima facie and it will not come in the way of the petitioner.

(ARUN R. PEDNEKER, J.)

ssc/