



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
NAGPUR BENCH, NAGPUR

Writ Petition NO.3076/2021

Dr. Smt. Pushpa wd/o Avinash Singhai and others Vs. Dr. Sunanda w/o Sunil Jain  
and ors.

---

*Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's orders.*

*Court's or Judge's order*

---

Mr.N.R.Saboo, Advocate for petitioners.  
Mr. S.S.Patil, Advocate and Mr. A. Mankar, Advocate  
for respondent nos.1 to 3.

**CORAM : ROHIT W.JOSHI, J.**  
**DATE : 01.12.2025**

1. Heard finally with consent of parties.
2. The present petition is filed challenging the order dated 31.03.2021 passed by learned Civil Judge Senior Division, Amravati, rejecting the application for grant of temporary injunction filed by the petitioners vide Exhibit 21 in Regular Darkhast No.42/2008.
3. It is not in dispute that Special Civil Suit No.222/2006 filed for partition and separate possession came to be compromised in view of out of court settlement and pursuant thereto, a compromise decree dated 29.6.2008 came to be passed. As per said decree, present petitioners who are Class-I legal heirs of original plaintiff (Dr.Avinash Singhai) are allotted 1/4th share in the residential house at Camp, Amravati admeasuring 1575 sq.ft. along with portion of structure standing on the said land. The portion be allotted to the original plaintiff is demarcated in compromise decree which provides that his portion of 1575 sq.ft. is on the extreme western side of the house property which is demarcated by making north south division. In this backdrop, the petitioners filed application against the defendants, who are sisters of deceased plaintiff, seeking order of temporary injunction against creation of third party rights. The said application is rejected by the impugned order.

4. Perusal of the impugned order indicates that the same is rejected under an impression that injunction was sought with respect of entire house and not 1/4th share of the petitioners on the said house. Apart from this, the learned Executing Court also observed that since proceedings for probate with respect to Will dated 8.3.2013 allegedly executed by deceased plaintiff was pending before the Court of competent jurisdiction the apprehension expressed as regards the creation of third party rights was not well founded.

5. As regards the first ground on which the application is rejected, the same is completely misconceived. The application is filed seeking temporary injunction only qua the share of the plaintiff in the suit property which is demarcated. As regards the second ground, since the probate proceeding is pending, it is all the more necessary to grant injunction against creation of third party interest.

6. In that view of the matter, the impugned order dated 31.3.2021 passed by the learned Civil Judge Senior Division, Amravati, on the application at Exhibit 21 in Regular Darkhast No.42/2008 is quashed and set aside. The application at Ex.21 in the said suit is allowed, restraining the present respondents from creating any third-party interest in respect of 1/4th undivided share of the original plaintiff, Dr.Avinash Sudarshan Singhai, as determined and delineated in compromise decree dated 29.6.2008 passed in Special Civil Suit No.222/2006.

7. The writ petition stands disposed of.

**(ROHIT W. JOSHI, J.)**