



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
CIVIL APPLICATION (CAC) NO.83 OF 2025
IN
CIVIL REVISION APPLICATION NO.146 OF 2025

The Recovery Officer, Shikshak Sahakari Ban Ltd., and anr.

Vs.

Mr. Pradeep Balchandra Pole and anr.

*Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order*

Court's or Judge's Order

Mr. N. L. Jaiswal, Advocate for applicants.

Mr. R. S. Sekhsaria, Advocate for respondents.

CORAM : ROHIT W. JOSHI, J.

DATE : 09.12.2025.

. Vide order dated 04.12.2025, this Court has granted ex-parte ad-interim stay to further proceedings in Regular Civil Suit No.1173 of 2025, which is pending on the file of the learned 3rd Jt. Civil Judge, Junior Division, Nagpur. The learned Advocate for respondent Nos.1 and 2/original plaintiffs points out that vide order dated 21.11.2025, the learned Trial Court had passed an order of status-quo in his favour, which was to operate till filing of reply by the defendants i.e. the present revision petitioners, to the application for grant of temporary injunction.

2. The learned Advocate for the plaintiffs draws attention to the order sheet dated 05.12.2025 in the civil suit, to point out that in view of the order of stay passed by this Court, the learned Trial Court refrained from passing any orders on the application for extension of

status-quo. He informs that, in view of the aforesaid, the interim order granted by the learned Trial Court, which was operating only till filing of reply, was not extended beyond 05.12.2025, since the reply was filed on 05.12.2025.

3. Power to grant injunction is vested with a Civil Court by virtue of Section 94 and Order XXXIX of the Code of Civil Procedure, 1908 (for short, "CPC"). Apart from this, in a given case, Section 151 can also be invoked for the said purpose. The said Section is included in Part-VI of the CPC, which is titled as Supplemental Proceedings. The Civil Procedure Code is divided in several parts, such as suits in general, execution, incidental proceedings, special proceedings, supplemental proceedings, etc. While granting stay to further proceedings before the learned Trial Court, this Court was not aware that any supplemental proceeding in the form of an application for grant of temporary injunction was pending. The intention of this Court was only to grant stay to the main proceedings in the suit and not the supplemental proceedings. The interim order dated 21.11.2025 implies that the main proceedings in the suit were stayed by this Court and not supplemental proceedings. In this regard, it will also be appropriate to refer to a judgment of the Hon'ble Supreme Court in the matter of *Amita Kaushish and ors. Vs. Sanjay Kaushish and ors.*, reported in (1996) 7 SCC 19, which holds that despite grant of stay to proceedings by a higher Court,

supplemental proceedings such as temporary injunction, appointment of receiver etc., can be continued.

4. The distinction between main proceedings in the suit and incidental or supplemental proceedings is explained in the minority view in the case of ***Vareed Jacob Vs. Sosamma Geevarghese and ors.***, reported in ***(2004) 6 SCC 378***. It will also be pertinent to state that although the distinction is explained in the minority judgment, the majority judgment in the said case is silent on this aspect pertaining to the distinction between supplemental, incidental/ancillary and main proceedings in a Civil Suit.

5. The learned Advocate for the revision petitioners does not dispute that possession of the suit property was taken on 05.12.2025, in view of the fact that order of status-quo granted earlier vide order dated 21.11.2025 was not extended on 05.12.2025.

6. Having regard to the fact that the learned Trial Court had passed order of status-quo on 21.11.2025 and has refrained from passing any further orders on application for extension of status quo believing that supplemental proceedings were also stayed, this Court is of the opinion that the status-quo ante will have to be restored.

7. It is not in dispute that the suit property bearing Plot No.79, H.B. Estate, Near Sonegaon Lake, Khamla Road, Nagpur is a residential house of respondent No.1/ plaintiff No.1.

8. In that view of the matter, the revision petitioners are directed to deliver possession of the said suit property to respondent No.1/plaintiff No.1. Respondent No.1/plaintiff No.1 is directed to file affidavit of undertaking before this Court, stating that in the event the suit is dismissed or application for grant of temporary injunction is rejected or the present revision application is allowed, he will handover possession of the suit property to the revision petitioners within a period of 15 days from such order.

9. It is clarified that this order for restoration of possession is restricted to the aforesaid property which is a residential house of respondent No.1/plaintiff No.1. This Court has not passed any order with respect to the other two suit properties. Despite the interim order dated 04.12.2025, the learned Trial Court shall proceed with hearing of the application for grant of temporary injunction at Exh.5 and shall make an endeavour to decide the same expeditiously.

10. Parties are put to notice that the revision application may be heard finally at the admission stage on **19.12.2025**.

11. Interim order dated 04.12.2025, shall continue till further orders, subject to clarification as aforesaid.

(ROHIT W. JOSHI, J.)

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