



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

WRIT PETITION NO. 4363 OF 2025

1. Pradip Jaysing Rathod, Aged 41 years, Occ: Service,
R/o Umardari, Tq. Barshitakali, District Akola.
2. Dipak Jaysing Rathod, Aged 39 years, Occ: Service,
R/o Umardari, Tq. Barshitakali, District Akola.
3. Anita Vasant Chavhan, Aged 43 years, Occ:Housewife,
R/o Deoulgaon Brahma, Tq. Patur, District Akola.
4. Sunita Anil Ade, Aged 37 years, Occ: Housewife,
R/o Renuka Nagar, Dabki Road, Akola, Tq. & Dist.Akola.

PETITIONERS

VERSUS

1. Premanand Motiramji Lahane, Aged 64 years, Occ:
Agriculturist, R/o Pinjar, Tq. Barshitakli, Dist. Akola.
2. Subodh Motiramji Lahane, Aged 71 years, Occ:Founder
of Institution, R/o Pinjar, Tq. Barshitakli, Dist. Akola.
3. Vikas Motiramji Lahane, Aged 75 years, Occ:Agriculturist,
R/o Pinjar, Tq. Barshitakali, District Akola.
4. Vidyatai Shrungash Thakare, Aged 60 years, Occ:
Housewife, R/o At Bahirkhed, Post Januna,
Tq. Barshitakali, District Akola.
5. Shridevi Vasantrao Sable, Aged 58 years, Occ:
Household, R/o Durga Chowk, Behind Khandesh
Dairy, Akola, Tq. and District Akola.

RESPONDENTS

Shri P.J. Mehta, counsel for the petitioners.
Shri S.S. Deshpande, counsel for the respondents.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : FEBRUARY 02, 2026

ORAL JUDGMENT

RULE. Rule made returnable forthwith. Heard finally with consent of the learned counsel for the parties.

2. By this petition, the petitioners/plaintiffs challenge the orders passed by the trial Court as well as the appellate Court granting temporary injunction in the counter claim in favour of the respondent no.1/defendant no.1, thereby protecting their possession over the suit property.

3. The petitioners are the original plaintiffs in Regular Civil Suit No.69 of 2021 instituted for declaration, possession and permanent injunction against the respondents. In the said suit, the defendants filed a counterclaim along with an application at Exhibit 14 under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 (for short, “the Code”), seeking temporary injunction against the plaintiffs. The said application came to be allowed by order dated 19.10.2022, restraining the plaintiffs and their agents from causing obstruction to the cultivation and possession of defendant no.1 over the suit property during pendency of the suit. The appeal preferred by the plaintiffs, being Miscellaneous Civil Appeal No.137 of 2022, was also dismissed by judgment and order dated 10.03.2025. Aggrieved thereby, the plaintiffs have assailed both the aforesaid orders in the present petition.

4. The controversy arises out of Regular Civil Suit No.69 of 2021, wherein the defendants have filed a counterclaim seeking declaration and permanent injunction in respect of the same property. In support of the counterclaim, the defendants contended that the suit property was owned and possessed by their deceased mother by virtue of registered sale deeds and that they are entitled to protection of such possession. Although the plaintiffs claimed possession over the suit property, they failed to substantiate the same on the basis of any cogent evidence. The trial Court, upon considering the material on record, rejected their contention and recorded a *prima facie* finding in favour of defendant no.1 on the basis of the registered sale deeds.

5. A perusal of the impugned orders passed by both the Courts below reveals that concurrent findings are recorded in favour of the defendants regarding possession of the suit property. The defendant no.1 claimed ownership through three registered sale-deeds executed in favour of his mother namely Pushpamala Motiramji Lahane, which are dated 22.02.1988, 25.02.2002 and 31.05.2002. Both the Courts below have recorded that the defendant no.1 established his possession on the basis of the said sale-deeds, the mutation entries and 7/12 extracts and therefore became entitled for protection by way of temporary injunction. The discretion exercised by the trial Court and affirmed by the appellate Court is based upon material available before it and it depicts sound reasoning and does not demonstrate any perversity.

6. On perusal of the impugned orders and having regard to the contentions canvassed on behalf of the parties, I am of the firm opinion that the concurrent findings recorded by both the Courts below are based on the material placed on record. No interference is warranted with the discretionary orders passed by both the Courts granting temporary injunction. As such, the petition deserves to be dismissed.

7. The petition is accordingly dismissed. Rule is discharged. There shall be no order as to costs.

(PRAFULLA S. KHUBALKAR, J.)