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	Registered on	30.10.2020
	Decided on	10.07.2026
	Duration	05 09 07 Y. M. D.

IN THE COURT OF CIVIL JUDGE JUNIOR DIVISION
CHIPLUN, DIST. RATNAGIRI.

(Presided over by K. A. Powar)

Reg. Civil Suit No.47/2020

Exhibit No.138

Shri.Mohan Baban Bhuvad,	}	
Age - 45 yrs., Occu. - Agriculture,	}	
R/o. A/p. Rampur Aletivadi,	}	Plaintiff
Tal.Chiplun, Dist.Ratnagiri.	}	

-- VERSUS--

(1) Shri.Prakash Govind Mali,	}	
Age - 55 yrs., Occu. - Agriculture,	}	
(2) Shri.Keshav Sajna Mali,	}	
Age - 65 yrs., Occu. - Agriculture,	}	
(3) Shri.Sambhaji @ Sambhya Sakharam Mali	}	
Age - 55 yrs., Occu. - Agriculture,	}	
(4) Shri.Akshay Ravindra Mali,	}	
Age - 22 yrs., Occu. - Service,	}	Defendants
5) Shri.Vijay Ratnu Mali,	}	
Age - 55 yrs., Occu. - Agriculture,	}	
6) Shri.Vijay Dattaram Dabhade,	}	
Age - 46 yrs., Occu. - Agriculture,	}	
7) Shri.Arvind Kashiram Mali,	}	
Age - 43 yrs., Occu. - Service,	}	
8) Shri.Kashiram Bhagoji Mali,	}	

- Age - 55 yrs., Occu. - Agriculture, }
- 9) **Shri.Ravindra Kashiram Mali,** }
- Age - 46 yrs., Occu. - Labour, }
- 10) **Sou.Sumati Keshav Mali,** }
- Age - 55 yrs., Occu. - Housewife, }
- 11) **Sou.Lata Ravindra Mali,** }
- Age - 40 yrs., Occu. - Housewife, }
- 12) **Sou.Kunda Prakash Mali,** }
- Age - 50 yrs., Occu. - Housewife, }
- 13) **Sou.Manda Sambhaji Mali,** }
- Age - 55 yrs., Occu. - Housewife, }
- 14) **Sou.Surekha Vijay Mali,** }
- Age - 40 yrs., Occu. - Housewife, }
- 15) **Rajaram Barku Jadhav (Deceased LR's),** }
- 15(A) **Smt.Rajshri Rajaram Jadhav,** }
- Age - 61 yrs., Occu. - Housewife, } Defendants
- 15(B) **Shri.Mangesh Rajaram Jadhav,** }
- Age - 42 yrs., Occu. - Service, }
- 15(C) **Sou.Mangal Rajaram Jadhav,** }
- Age - 39 yrs., Occu. - Do nothing, }
- 15(D) **Shri.Mahesh Rajaram Jadhav,** }
- Age - 34 yrs., Occu. - Service, }
- 15(E) **Smt.Majula Rajaram Jadhav,** }
- Age - 36 yrs., Occu.- Do Nothing, }
- 16) **Shri.Gopinath Babu Mali,** }
- Age - 50 yrs., Occu. - Agriculture, }
- 17) **Sou.Sulochana Sitaram Udeg,** }
- Age - 40 yrs., Occu. - Housewife, }
- 18) **Sou.Karishma Krushna Gorivale,** }
- Age - 42 yrs., Occu. - Housewife, }

- 19) Smt.Anjira Baban Bhuvad, }
Age - 75 yrs., Occu. - Housewife, }
No.1 to No.19 All R/o. A/p. Rampur, } Defendants
Aletivadi, Tal.Chiplun, Dist.Ratnagiri }

“PARTIES TO COUNTER-CLAIM”

- (1) Shri.Prakash Govind Mali, }
Age - 55 yrs., Occu. - Agriculture, }
- (2) Shri.Keshav Sajna Mali, }
Age - 65 yrs., Occu. - Agriculture, }
- (3) Shri.Sambhaji @ Sambhya Sakharam Mali }
Age - 55 yrs., Occu. - Agriculture, }
- (4) Shri.Akshay Ravindra Mali, }
Age - 22 yrs., Occu. - Service, }
- 5) Shri.Vijay Ratnu Mali, }
Age - 55 yrs., Occu. - Agriculture, }
- 7) Shri.Arvind Kashiram Mali, } Counter-
Age - 43 yrs., Occu. - Service, } claimants
- 8) Shri.Kashiram Bhagoji Mali, }
Age - 55 yrs., Occu. - Agriculture, }
- 9) Shri.Ravindra Kashiram Mali, }
Age - 46 yrs., Occu. - Labour, }
- 10) Sou.Sumati Keshav Mali, }
Age - 55 yrs., Occu. - Housewife, }
- 11) Sou.Lata Ravindra Mali, }
Age - 40 yrs., Occu. - Housewife, }
- 12) Sou.Kunda Prakash Mali, }
Age - 50 yrs., Occu. - Housewife, }
- 13) Sou.Manda Sambhaji Mali, }
Age - 55 yrs., Occu. - Housewife, }
- 14) Sou.Surekha Vijay Mali, }
Age - 40 yrs., Occu. - Housewife, }

- 15) Rajaram Barku Jadhav (Deceased LR's), }
15(A) Smt.Rajshri Rajaram Jadhav, }
Age - 61 yrs., Occu. - Housewife, }
15(B) Shri.Mangesh Rajaram Jadhav, }
Age - 42 yrs., Occu. - Service, }
15(C) Sou.Mangal Rajaram Jadhav, }
Age - 39 yrs., Occu. - Do nothing, }
15(D) Shri.Mahesh Rajaram Jadhav, }
Age - 34 yrs., Occu. - Service, }
15(E) Smt.Majula Rajaram Jadhav, }
Age - 36 yrs., Occu.- Do Nothing, }
- 16) Shri.Gopinath Babu Mali, } Counter-
Age - 50 yrs., Occu. - Agriculture, } claimants
- *VERSUS*--
- Shri.Mohan Baban Bhuvad, }
Age - 45 yrs., Occu. - Agriculture, } Defendant
R/o. A/p. Rampur Aletivadi, } (Original
Tal.Chiplun, Dist.Ratnagiri. } plaintiff)

SUIT FOR PERPETUAL INJUNCTION.

COUNTER-CLAIM FOR DECLARATION OF OWNERSHIP.

APPEARANCES :-

- * Shri.S.D.Pirdankar - Advocate for plaintiff and for defendant no.17 to 19
 - * Shri.S.V.Sawant/Shri.S.S.More - Advocate for defendants/counter-claimants nos.1 to 5, 7 to 16.
 - * Defendant no.6-without written statement.
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---:: J U D G M E N T ::---

(Delivered on 10.07.2026)

The present suit is filed by the plaintiff against

defendants for relief of perpetual injunction and for compensation in respect of suit property Gat No.74/11 and 72/17 situated at Village Rampur, Tal.Chiplun. In the present suit, a counter claim of declaration of ownership is preferred by defendant nos.1 to 5 and 7 to 16 in respect of Gat No.74/11 situated at Village Rampur, Tal.Chiplun. *(In order to avoid confusion as to nomenclature of the parties, they are addressed by their status in the original plaint.)*

BRIEF FACTS OF THE PLAINTIFF'S CASE ARE AS UNDER -

02. The plaintiff is a permanent resident of Village Rampur Aletewadi, Taluka Chiplun, District Ratnagiri. The plaintiff and his ancestors have been residing at Village Rampur Aletewadi since many years. The plaintiff owns several properties in and around Village Rampur. Since the plaintiff's primary occupation is agriculture, he has been earning his livelihood from agricultural income generated from the said properties-

DESCRIPTION OF SUIT PROPERTY -

Schedule - "A"

Sr. No.	Old Survey No.	New Survey No.	Sub-Division	Area Hecter and R	Assessment Rs. & Ps.
1)	62(11)	74	11	1.37.00 <u>0.70.00</u> 2.07.00	0.7
2)	60(17)	72	17	0.17.90 <u>0.01.30</u> 0.19.20	1.37

Above mentioned property situated at Village

Rampur, Tal.Chiplun hereinafter referred as **“suit property”**.

03. The suit property described in Schedule "A" above is the subject matter of the present suit. The suit property mentioned in Schedule "A" allotted to the plaintiff's grandfather's by virtue of Record of Rights (By way of tenancy) on 27 December 1953, by way of Mutation Entry No.689.

04. Since last 80 years, the plaintiff's great-grandfather and after him, the plaintiff's grandfather have been cutting grass and collecting firewood from the suit property. After the plaintiff's grandfather, the plaintiff's father continued cutting of grass and collecting firewood from the suit property. Further, the plaintiff's grandfather and later the plaintiff's father had planted and maintained several Mango trees, Ain (Indian laurel) trees, Kinjal trees and Kheir trees in the property. The plaintiff's grandfather used to harvest the produce from these trees, especially mangoes. After the grandfather's death, the plaintiff's father continued to collect the produce from the mango and trees planted in suit property. After, the father's death, the plaintiff himself has been continuously enjoying the produce from these trees every year. The plaintiff's great-grandfather and grandfather had also constructed a farm shed on the suit property for storing agricultural implements. Over the time, however, the farm shed deteriorated and collapsed.

05. Earlier, the plaintiff's great-grandfather cultivated paddy (rice) crops in the suit property. After his death, the

plaintiff's grandfather continued the paddy cultivation and earned income from suit property. After the grandfather's death, the plaintiff's father carried on the same cultivation, and after the father's death, the plaintiff has continued cultivating paddy and earning income from the suit property till today. In addition, the plaintiff's grandfather had constructed a cattle shed in the suit property. With the passage of time, the cattle shed is also deteriorated and eventually collapsed. Although, the cattle shed no longer exists, the plaintiff has continued paying the Gram Panchayat taxes of said cattle shed. Thus, the plaintiff continues to remain in possession and enjoyment over the suit property.

06. Moreover, in the suit property, the plaintiff himself has planted and cultivated approximately 50 cashew trees. The remaining area of the suit property contains grass, which the plaintiff still cuts for feeder for his cattle. During the summer season, the plaintiff continues to cut the grass for use as cattle feeder. Likewise, the plaintiff has continued to collect grass and firewood from the suit property till today.

07. Thus, as stated above, in respect of both the suit properties described in Schedule "A", the plaintiff's great-grandfather was in possession, followed by the plaintiff's grandfather, then the plaintiff's father and after the father's death, the plaintiff has been in continuous, peaceful, and uninterrupted possession and enjoyment of the suit properties.

08. However, defendant nos. 1 to 16 without any

lawful authority, illegally entered in the suit property described in Schedule "A" i.e. Gat No.74/11. They have broken and uprooted the fencing made by the plaintiff around the plantation, repeatedly threatened the plaintiff and interfered with his peaceful possession and enjoyment of the suit property. Further, in the property described i.e. Gat No.72/17 of Schedule "A", defendant nos.1 to 16 have also trespassed into suit property without the plaintiff's consent. They have broken the fencing erected by the plaintiff, allowed their cattle to graze in the suit property, unlawfully cut and removed the grass from the land and damaged the cashew trees planted by the plaintiff. They have also cut and taken away the plaintiff's timber/wood from the property without his consent. Moreover, they have repeatedly broken the fencing erected by the plaintiff in Gat No.72/17 and have caused damage to the plaintiff's paddy cultivation. In fact, the plaintiff repeatedly requested defendants nos.1 to 16 not to quarrel or engage in such illegal acts. However, since the defendants are quarrelsome by nature, they did not pay any heed. On several occasions, defendants nos.1 to 16 threatened the plaintiff by saying "You have no connection with this property, you have come to this village only as outsiders. We will decide how to deal with you and if you object, we will not even allow you to live in this village peacefully". The defendants repeatedly issued such threats. Considering that the defendants were local residents and that further confrontation might disturb peace, the plaintiff did not respond to or retaliate against defendants

threats.

09. In fact, defendant no.1 to 16 are not having any concern with the suit properties, nor do they have any relationship with the suit properties even today. However, since suit properties of the plaintiff are adjacent to the suit property of the defendants, defendant nos.1 to 16 are attempting to create unnecessary trouble to the plaintiff with the intention of taking illegal possession of the suit property and preventing the plaintiff from fencing suit properties. They are also trying to obstruct the plaintiff peaceful possession of the plaintiff.

10. Not only this, but defendant nos.1 to 16 have been continuously harassing the plaintiff with the intention of compelling plaintiff to relinquish the suit property or to exert pressure on plaintiff. Defendants have also spread false and defamatory statements about the plaintiff in the village and tried to defame plaintiff's reputation. However, as the plaintiff is peace-loving and patient by nature, he has always maintained peace. Eventually, being fed up with the continuous harassment by defendant nos.1 to 16, the plaintiff decided to have the suit property officially surveyed by the government surveyor on 11 February 2020. After the surveyor confirmed the four boundaries, the plaintiff erected a barbed-wire fence around the said properties.

11. However, taking advantage of the plaintiff's peaceful nature, on 25 April 2020, when the plaintiff had gone to the suit properties to construct a cattle shed for his

cattle and while he was in the process of constructing the shed, defendant Nos.1, 15, and 16 entered into the suit properties. They abused the plaintiff and threatened him, saying “This land does not belong to you, do not build your cattle shed here. If you come into this land again, we will break your legs”. They also unlawfully threatened to kill the plaintiff. Thereafter, the plaintiff lodged a complaint against defendant nos.1, 15, and 16 at Chiplun Police Station. However, after the complaint was filed, during the police inquiry, defendant nos.1, 15, and 16 gave an oral undertaking that they would not repeat such acts in the future, and on that basis the complaint was closed.

12. After a few days, on 14.09.2020, defendant nos.1 to 16, acting in collusion, unlawfully entered into suit property and once again started interfering with the plaintiff's peaceful possession. They removed and broke the barbed-wire fencing erected by the plaintiff around the suit property and deliberately released their cattle into the land with the intention of causing loss to the plaintiff. Because defendant nos.1 to 16 repeatedly damaged the fencing, stray cattle from the village also entered the property and destroyed the trees planted by the plaintiff as well as the standing crops. As a result of the defendants' unlawful acts, the plaintiff suffered a loss of approximately Rs.25,000/-.

13. When the plaintiff questioned defendant nos.1 to 16 about uprooting the fencing, allowing cattle to graze on the properties, damaging the trees and cutting the grass from the suit land, all the defendants gathered together and

abused the plaintiff and the plaintiff's wife in filthy language. They threatened to kill the plaintiff. Thereafter, defendant no.1 assaulted the plaintiff and the plaintiff's wife with sticks. They further threatened the plaintiff by saying "Do whatever you want. We will not remain quiet until we take possession of this land. Until you hand over this land to us, we will continue to harass you." Due to these acts of intimidation, the plaintiff's wife immediately approached Rampur Police Outpost to lodge a complaint. However, because of the COVID-19 pandemic, the police advised them to register the complaint online.

14. Accordingly, the plaintiff and the plaintiff's wife submitted an online complaint against Defendant Nos.1 to 16 at Chiplun Police Station. On the following day, 15.09.2020, the plaintiff and the plaintiff's wife visited Chiplun Police Station to inquire about the action taken on their complaint. The police informed them that the defendants would be summoned within two days for inquiry and further proceedings. The police informed the plaintiff that they would visit the spot and conduct an inquiry. However, despite the lapse of several days, the police failed to investigate the complaint on one pretext or another. Taking advantage of this situation, defendant nos.1 to 16 repeatedly threatened the plaintiff, saying "No one can do anything to us. The police station is under our control. Even if you file cases against us, nothing will happen to us. Leave this place; within a few days we will take possession of the land."

13. The plaintiff is a resident of Rampur village,

whereas defendant Nos.1 to 16 have several close relatives and family members residing in the same village. On the other hand, the plaintiff has very few relatives in Rampur and resides at Aletewadi. Consequently, the plaintiff has no local support in Rampur or Aletewadi. Taking undue advantage of this situation, defendant nos.1 to 16 have been continuously exerting pressure on the plaintiff to dispossess him from the suit property and have repeatedly threatened him for that purpose. Defendant nos.1 to 16 are influential persons in the village and are known for their aggressive and high-handed conduct. As a result, there is a strong likelihood that they may again intimidate the plaintiff, forcibly enter the suit property, interfere with the plaintiff's peaceful possession and enjoyment of the property and cause damage to the crops, grass, trees, and cashew plantations standing thereon. Therefore, it is necessary to restrain defendant nos.1 to 16, either personally or through any other person acting on their behalf, from entering into suit properties or obstructing the plaintiff's peaceful possession and enjoyment of the same. It is also necessary to direct defendant nos.1 to 16 to compensate the plaintiff for the loss already caused to the suit properties.

14. Defendant nos.17 and 18 are the plaintiff's real sisters and defendant no.19 is the plaintiff's mother. There is no dispute between the plaintiff and defendant nos.17 to 19. They have been impleaded only as necessary parties, as their names appear in the revenue records relating to the suit property. The plaintiff's claim is bona-fide and lawful. At present, however, the plaintiff does not seek any substantive

relief against defendant nos.17 to 19. Hence, plaintiff is constrained to file to present suit.

15. The defendant no.3, 4, 5, 7, 9, 10, 11, 12, 13, 14 and 16 have adopted written statement filed by defendant no.1, 2, 8 and 15 vide pursis (at Exh.53). Defendant no.17, 18 and 19 admitted suit of the plaintiff as true and correct vide pursis Exh.64. Defendant no.6 appeared in this suit but he did not file any written statement, hence suit is proceeded “without written statement” against him on 16.02.2021.

16. Defendant No.1, 2, 8 and 15 filed their written statement at Exh.51. They have contended that, suit of the plaintiff is false and misleading. It is contended by the plaintiff that the property mentioned in plaint has been in the possession and enjoyment of Late Shridhar Krishna Malshe. Late Shridhar Krishna Malshe passed away around the year 1984 and after his death, Pandurang Shridhar Malshe became his sole legal heir. Pandurang Shridhar Malshe passed away in the year 1988. After his death, his sons Shri.Vidyadhar, Shri.Ramkrishna and Shri.Arvind became his legal heirs. Besides them, his daughters Smt.Rajani Ramchandra Damle, Smt.Shalini Shriram Vaidya and Smt.Sulabha Sharad Vaje also became his legal heirs. Out of the aforesaid legal heirs Smt.Sulabha Sharad Vaje has since passed away and after her death, Abhay Sharad Vaje and Sachin Sharad Vaje are her legal heirs.

17. Late Shridhar Krishna Malshe was a native of

Village Gangarai, Tal.Chiplun, where his ancestral property as well as his residential house are situated. At present, after the death of Late Shridhar Krishna Malshe, his grandson Shri.Vidyadhar is residing there as the legal heir and is looking after and managing all the ancestral properties. Apart from the ancestral properties, Late Shridhar Krishna Malshe also owned self-acquired properties situated at Village Rampur and Village Katroli, Tal.Chiplun. After the death of Late Shridhar Krishna Malshe, Pandurang became his sole legal heir. Shri.Pandurang was of a social and public-minded nature and for some time, also served as the Sarpanch of Village Gangarai. While carrying out these responsibilities, he also looked after and managed the self-acquired properties of his father. Consequently, he frequently visited Village Gangarai, Village Rampur and Village Katroli. Although Late Shridhar Krishna Malshe had constructed a house at Aletewadi, Village Rampur, due to the difficulty of maintaining both the house at Gangarai and the house at Rampur, his residence at Rampur gradually reduced. Thereafter, the house at Rampur was neglected in terms of repairs and maintenance, became dilapidated, and at present only its remains exist. The grandson of Late Shridhar Krishna Malshe, namely Shri.Vidyadhar is a Primary School Teacher. While serving at Village Rampur, he resided in the house constructed by his grandfather, Late Shridhar Krishna Malshe. As Shri.Vidyadhar Pandurang Malshe had a keen interest in agriculture, after the death of Shri.Pandurang he continued the responsibility of maintaining the immovable properties.

18. Consequently, he had complete knowledge as to who was in possession of the properties at Village Rampur and who was cultivating them. Accordingly, the property bearing Survey No.74, Hissa No.11 situated at Village Rampur, has been under the possession and cultivation of the present defendants, as well as their predecessors, for more than 90 years. Thus, possession of the said property has continued from the time of Shri.Vidyadhar Pandurang Malshe's grandfather, Late Shridhar Krishna Malshe, to the defendants and before them, to their predecessors since the year 1930. The four boundaries of their possession are well-defined and each person have been enjoying the portion in their possession according to its extent. Shri.Vidyadhar was fully aware of these facts.

18. At Aletewadi, Village Rampur, Tal.Chiplun, the Mali, Dabhade, Kijbile, Bendre and other families have been residing for generations. They also own immovable properties there. Their principal occupation is agriculture, and as an allied occupation, they are also engaged in the dairy business. The Bendre family owned several immovable properties in the said locality. In Aletewadi, Village Rampur, Shri Babu Bendre was a local resident and a large-scale farmer. At that time, he required permanent labourers to work on his agricultural lands. Accordingly, Shri.Babu Bendre came into contact with the plaintiff's grandfather, Shri.Gunaji alias Gunya Bal Bhuvad, a resident of Village Shiral, Tal.Chiplun. Since the financial condition of Shri.Gunaji alias Gunya Bal Bhuvad was extremely poor and he did not own any

immovable property there, he agreed to work as a permanent farm labourer for Shri Babu Bendre in order to support his family.

19. The native village of Shri Gunaji alias Gunya Bal Bhuvad was Village Shiral, Tal.Chiplun, where he resided in a hilly and sparsely populated area. Consequently, when he came to Village Rampur to work as a permanent farm labourer on the agricultural lands of Shri.Babu Bendre, he shifted there with his family and began residing permanently at Rampur (Aletewadi). After settling at Village Rampur, while continuing to work as a permanent agricultural labourer for Shri.Babu Bendre, he gradually started cultivating land independently. After a few years, Shri.Babu Bendre permitted Shri.Gunaji alias Gunya Bal Bhuvad to construct a house on his (Bendre's) ownership land, and from that time onwards Shri.Gunaji alias Gunya Bal Bhuvad started residing permanently at Aletewadi, Village Rampur. Shri.Baban Gunaji Bhuvad became the lawful heir of Shri.Gunaji alias Gunya Bal Bhuvad. Shri.Baban Gunaji Bhuvad also had a keen interest in agriculture. He continuously worked as an agricultural labourer at Aletewadi, and consequently in Village Rampur. For several years, he also assisted Shri.Vishwanath Dabhade in agricultural operations at Aletewadi, Village Rampur.

19. The plaintiff has completed education upto the 10th Standard. Thereafter, he lived outside the village for employment. For some time, he worked in Mumbai, and subsequently he was employed at a private petrol pump at

Mahabaleshwar, Dist.Satara. During his employment there, he was dismissed from service due to certain undesirable misconduct. Thereafter, for approximately one and a half to two years, he has been residing at Aletewadi, Village Rampur. Prior to this, the plaintiff had never engaged in agriculture and, therefore, has no experience whatsoever in farming.

20. Shri.Pandurang Shridhar Malshe used to visit Village Rampur regularly for the purpose of looking after his properties and maintaining the house. As the plaintiff's grandfather, Shri.Gunaji alias Gunya Bal Bhuvad, was employed as a permanent agricultural labourer on the farm of Shri.Babu Bendre at Aletewadi, Village Rampur, Shri.Pandurang Shridhar Malshe was acquainted with him. Shri.Pandurang Shridhar Malshe had complete knowledge of who was in possession of and cultivating his ancestral properties. Since Shri.Gunaji alias Gunya Bal Bhuvad was in extremely poor financial condition, he was in urgent need of paddy land for cultivation. Shri.Pandurang Shridhar Malshe owned Survey No.72, Hissa No.17 (old Survey No.60, Hissa No.17) situated at Village Rampur, Tal.Chiplun, which was a paddy field and his self-acquired property. Accordingly, Shri Gunaji alias Gunya Bal Bhuvad requested Shri Pandurang Shridhar Malshe to allow him to cultivate the said land. Considering the poor financial condition of Shri.Gunaji alias Gunya Bal Bhuvad, Shri.Pandurang Shridhar Malshe accepted his request and permitted him to cultivate the paddy field comprised in Survey No.72, Hissa No.17 and accordingly, he commenced cultivation of the said property. Except for the

aforesaid property, Shri.Pandurang Shridhar Malshe had never permitted Shri.Gunaji alias Gunya Bal Bhuvad to cultivate any of his other properties.

21. Thereafter, in the year 1953, upon the coming into force of the Record of Rights Act, the Government decided that the names of the persons who were actually in possession of the lands and cultivating them should be entered in the revenue records with the consent of the original owners. Accordingly, with respect to Survey No.72, Hissa No.17, Shri.Gunaji alias Gunya Bal Bhuvad requested Shri.Pandurang Shridhar Malshe to give his consent for recording his name in the revenue records. Initially, Shri.Pandurang Shridhar Malshe expressly refused to grant such consent. However, considering the poor financial condition of Shri.Gunaji alias Gunya Bal Bhuvad, he ultimately agreed, and accordingly Survey No.72, Hissa No.17 came to be recorded in the name of Shri.Gunaji alias Gunya Bal Bhuvad.

22. At the relevant time, Survey No.74, Hissa No.11 was and continues to be in the possession of present defendants through their predecessors, who were cultivating the said land according to the extent of their respective possession. The produce from the land was being delivered by them to Shri.Pandurang Shridhar Malshe and after his death, to his son Shri.Vidyadhar. Out of the total area of Survey No.74, Hissa No.11, 0H 70R 00P is in the possession of the predecessors of defendant No.2, 0H 85R 0P is in the possession of the defendant no.1, 0H 20R 0P is in the

possession of the defendant no.15, OH 17R OP is in the possession of the defendant no.08 and the remaining OH 15R OP is in the possession of Shri.Bhikaji Balu Bendre. Accordingly, each of the aforesaid persons have been in separate and independent possession of their respective portion. The four boundaries and limits of each person's possession are clearly defined, and such possession has continued peacefully, openly, and uninterruptedly upto the present day. These facts were well known to the predecessors-in-title of the suit property, and at present, they are also known to their legal heirs.

23. The fact that defendant nos.1, 2, 8 and 15, and before them their predecessors-in-title, were in possession of Survey No.74, Hissa No.11 was fully known to Shri.Pandurang Shridhar Malshe and consequently, to Shri.Gunaji alias Gunya Bal Bhuvad. Not only that, defendant no.1 also had an ancestral cattle shed situated on the said property. The predecessors of defendant nos.1, 2, 8 and 15 were illiterate. Consequently, they had no knowledge whatsoever regarding the implementation of the Record of Rights Act. As the defendants' families had close relations with the Malshe family, they never made any effort to have their names entered in the revenue records. As a result, they were only aware that they were cultivating and possessing the land and that they had to pay the agricultural assessment (land revenue) to the original owner. Even today, after the death of Shri.Pandurang Shridhar Malshe, they continue to pay the said land revenue to his son Shri.Vidyadhar.

Accordingly, defendant nos.1, 2, 8 and 15, as well as their predecessors-in-title, never attempted to encroach upon or illegally occupy Survey No.74, Hissa No.11.

24. Survey No.70, Hissa No.17 was, for several years, in the possession of the plaintiff's grandfather, Shri.Gunya Bal Bhuvad. He had requested Shri.Pandurang Shridhar Malshe to have his name entered as the tenant in respect of the said land. At that time, Shri.Pandurang Shridhar Malshe granted permission for Shri.Gunya Bal Bhuvad's name to be entered as the tenant in Survey No.70, Hissa No.17. However, Shri.Pandurang Shridhar Malshe never granted permission for the name of Shri.Gunya Bal Bhuvad to be entered as the tenant in Survey No.74, Hissa No.11. Consequently, Survey No.74, Hissa No.11 remained in the possession of the defendants, who continued to cultivate the said land. This fact was fully known to Shri.Pandurang Shridhar Malshe and, after his death, to Shri.Vidyadhar Pandurang Malshe.

25. In Survey No.74, Hissa No.11, defendant no.1 also had a cattle shed. Recently, however, defendant nos. 1, 2, 8, and 15 reduced the number of their cattle's and constructed a cattle shed near their respective houses. As a result, the cattle shed situated in Survey No.74, Hissa No.11 is presently in a dilapidated condition. Accordingly, since defendant nos.1, 2, 8, and 15 had been in long-standing possession and enjoyment of Survey No.74, Hissa No.11, they continued to cultivate the land, and up to 11.02.2020, no one had ever raised any objection or caused any obstruction to their possession. As the defendants are uneducated, they had

never examined the 7/12 Extract of the property, nor had they ever had any occasion to deal with or inspect any other revenue records relating to the property.

26. While matters stood thus, defendant no.8 received a notice regarding the survey/measurement of Survey No.74, Hissa No.11. However, since defendant no.8 is illiterate, he was unable to understand that the notice pertained to the measurement of the said property. Only after the measurement was carried out did the defendant come to know that, the land under the possession of defendant nos.1, 2, 8, and 15 had been recorded in the names of the plaintiff. They first became aware of this fact on 11.02.2020.

27. Although Survey No.74, Hissa No.11 was in the defendants possession, when they noticed that the name of the Malshe family, the owners of the property, was not reflected in the 7/12 extract, they approached Shri.Vidyadhar Pandurang Malshe for clarification. Upon examining the 7/12 extract of the said property, Shri.Vidyadhar Pandurang Malshe discovered that the names of the plaintiff in the present suit had been entered therein. This also came as a surprise to him. After the official measurement conducted on 11.02.2020 established that the said property stood recorded in the names of the plaintiff, the plaintiff began interfering with and obstructing the peaceful possession and enjoyment of defendant nos.1, 2, 8, and 15 and their family members. Thereafter, defendant nos.1, 2, 8, and 15 decided to apply for entry of their names in the 7/12 extract as tenants of the said property. For that purpose, they began collecting the old

documents relating to the property. From the documents so obtained, it came to light that Survey No.74, Hissa No..11 had not been granted to Shri.Gunaji alias Gunya Bal Bhuvad as a tenant.

28. Consequently, they approached the Gram Panchayat, Rampur, requesting that an on-site inspection of Survey No.74, Hissa No.11 be carried out and that a resolution be passed recording that defendant nos.1, 2, 8, and 15, along with their family members, were in actual possession of the property. Accordingly, on 14.08.2020, all the members of the Gram Panchayat, Rampur, conducted an on-site inspection and prepared a report stating that defendant nos.1, 2, 8, and 15 were in possession of the property. However, due to the COVID-19 pandemic, due to the spread of the COVID-19 pandemic, the Gram Sabha of the Gram Panchayat could not be convened. Consequently, no resolution could be passed declaring that defendant nos.1, 2, 8 and 15 were in possession of the entire area comprised in Survey No.74, Hissa No.11.

28. While the aforesaid circumstances existed, when the plaintiff came to know that his name had been entered in respect of Survey No.74, Hissa No.11, the present plaintiff started threatening the defendants. During the said period, the plaintiff began creating obstructions in the defendants possession, abusing and intimidating them, and attempting to drive cattle into Survey No.74, Hissa No.11, thereby causing interference with the defendants cultivation and possession. As a result, defendant nos.1 lodged a complaint against the

plaintiff at the Chiplun Police Station on 25.05.2020. A copy of the said complaint is being produced before this Hon'ble Court along with a separate list of documents.

29. The present defendant nos.1, 2, 8 and 15 have asserted that, they are in ancestral possession of Survey No.74, Hissa No.11. The defendants are not trespassers. With the consent of the original owners, they and their predecessors have been in possession of and cultivating the suit property, Survey No.74, Hissa No.11, for since 90 years, deriving their livelihood therefrom. Accordingly, the defendants have also filed the counterclaim seeking a declaration of their legal rights, possession, and ownership, and specifically claiming that they have become owners by adverse possession. In other words, defendant nos.1, 2, 8 and 15 have become owners by adverse possession. Consequently, as the present suit of the plaintiff is barred by the provisions of **Order VII Rule 11 of the Code of Civil Procedure (CPC)**, the suit is liable to be rejected.

33. The plaintiff has not pleaded any valid or sufficient cause of action in the plaint. In fact, the cause of action for filing the present counterclaim arose on 24.04.2020, when the plaintiff came to the land in possession of defendant nos.1, 2, 8 and 15, bearing Survey No.74, Hissa No.11, at about 10:30 a.m., By making the threats, the plaintiff interfered with and obstructed the lawful possession of the defendants, and such interference has continued ever since.

31. Original plaintiff filed his written statement to counter-claim raised by defendant nos.1 to 5 and 7 to 16 at Exh.49. The original plaintiff has reiterated his version in the plaintiff in the written statement at Exh.49. He has denied contentions raised in counter-claim filed by defendant nos.1, 2, 8 and 15 as false and incorrect. Hence, original plaintiff prayed to reject the counter-claim.

32. From consideration of facts and pleading of the plaintiff, defendants issues have been framed at Exh.65. I have record my finding against each of them for the reasons stated below-

Sr.No.	Issues	Findings
1)	Does plaintiff proves that, he is in settled possession over the suit property?	Yes.
2)	Does plaintiff proves that, the obstruction at the hands of defendants in his possession over the suit property?	Yes.
3)	Does plaintiff proves that, defendant has damage the suit property and thereby he sustained loss of Rs.25,000/-?	No.
4)	Whether plaintiff is entitled for the perpetual injunction?	Yes.
5)	Whether plaintiff entitled for the compensation?	No.
6)	What order and decree ?	Suit is decreed.

Issues in Counter-claim -

Sr.No.	Issues	Findings
7)	Whether counter claimant proves that, they are owner of suit property in counter claim bearing Survey No.74 Sub-Division 11?	No.
8)	Whether counter claimant proves that, they are in possession of suit property in counter claim?	No.
9)	Whether counter claimant proves that, defendant i.e. original plaintiff obstructed their possession over suit property in counter-claim?	No.
10)	Whether counter claimant are entitled for the relief of declaration as claimed?	No.
11)	Whether counter claimant are entitled for the relief of perpetual injunction as claimed?	No.
12)	What order and decree ?	Counter-claim is dismissed.

--:: REASONS ::--

33. The Plaintiff in order to substantiate his claim examined P.W.No.1 Mohan Baban Bhuvad (at Exh.76), P.W.2 Krushnat Bajrang Vetral (at Exh.96) in form of oral evidence. Defendants nos.1 to 5 and 7 to 16 and counter-claimants to substantiate their claim examined D.W.1 Prakash Govind Mali (at Exh.105), D.W.2 Keshav Sajnaji

Mali (at Exh.108), D.W.3 Ravindra Kashiram Mali (at Exh.110), D.W.4 Vijay Ratnu Mali (at Exh.113). Documentary evidence produced by plaintiff and defendants/counter-claimants on record will be assessed at appropriate stage as and when necessary.

AS TO ISSUES NOS.1, 2, 3, 5, 7, 8, 9 -

34. Issues nos.1, 2, 3, 5, 7, 8, 9 are very much interconnected and therefore reasons relating to them are conjointly discussed as under.

35. P.W.No.1 Mohan Bhuvad has deposed at Exh.76. He has reiterated his contents in the plaint. He has deposed that, his family has been in continuous, peaceful and uninterrupted possession of the suit properties i.e. Gat No.74/11 and Gat No.72/17 situated at Village Rampur, Tal.Chiplun for over 80 years. The said properties were allotted to his grandfather through revenue records in 1953, and since then four generations of the family have cultivated paddy, planted and maintained mango, cashew and other trees, collected grass and firewood, harvested produce, and paid taxes relating to the property. The plaintiff continues to cultivate the land and enjoy its produce.

36. He further deposed that, defendants nos.1 to 16, who have no legal right or interest in the suit properties, have repeatedly trespassed into the land, destroyed fencing, grazed cattle, damaged crops and trees, cut grass and timber, threatened and assaulted the plaintiff and his wife and attempted to illegally dispossess him. Despite complaints to

the police and a government survey confirming the property four boundaries, the defendants allegedly continued their unlawful interference and intimidation.

37. He further deposed that, fearing further trespass, damage, and forcible dispossession, the plaintiff has filed the present suit seeking a permanent injunction restraining Defendants Nos. 1 to 16 from interfering with his peaceful possession of the suit properties and claiming compensation for the losses caused. Defendants Nos. 17 to 19, who are the plaintiff's mother and sisters, have been joined only as necessary parties because their names appear in the revenue records, and no substantive relief is sought against them.

38. P.W. No.2 Krushnat Bajran Vetral has deposed at Exh.96. He has deposed that, he had been working as junior clerk in the year of 2018 in office of Superintendent of land record. At present he is working in the office of Asstt. superintendent of land record at Taluka Khed. He has prepared measurement map of Survey No.74/11 situated at Village Rampur. He had brought along with him measurement map "A" and "B" sheet. "C" Sheet produced on record is prepared from "A" and "B" sheet it is at Exh.97. The application for measurement was filed by Mohan Bhuvad it is at Exh.98. On 11.02.2020 he visited place of measurement at Village Rampur Survey No.74/11. The measurement was carried out with the help of plain table method. At the time of measurement applicant Mohan Bhuvad panch witnesses Ajit Gavade, Vasant Gotad and Halade were present. He had prepared panchnama of measurement. It is at Exh.99. The

statement of panch witnesses is also recorded. It is at Exh.100. The measurement fees receipts is at Exh.101 and 102 respectively.

39. D.W. No.1 Prakash Govind Mali has deposed at Exh.105. D.W. No.2 Keshav Sajnaji Mali (At Exh.108), D.W. No.3 Ravindra Kashiram Mali (at Exh.110), D.W. No.4.Vijay Ratnu Mali (at Exh.113) have reiterated version of D.W.1. They have deposed that, the suit property originally belonged to Late Shridhar Krishna Malshe and, after his death, devolved upon his legal heirs. They assert that Survey No.74/11 has been in the continuous, open, peaceful, and uninterrupted possession of the defendants and their predecessors for more than 90 years with the knowledge and consent of the original owners. They cultivated the land, maintained cattle sheds, and regularly paid the agricultural assessment to the Malshe family, while the plaintiff's family was permitted to cultivate only Survey No.72/17 and had no rights over Survey No.74/11.

40. They have further deposed that, according to the defendants, the plaintiff's grandfather was merely an agricultural labourer who was allowed to cultivate Survey No.72/17 due to his poor financial condition. The plaintiff or his predecessors were ever granted tenancy rights over Survey No.74/11. Due to their illiteracy, they were unaware that their names had not been entered in the revenue records and only discovered in February 2020 that the property had been recorded in the plaintiff's name.

41. They have further deposed that, after the survey conducted on 11 February 2020, the plaintiff began interfering with their long-standing possession by threatening them and obstructing their cultivation. They filed complaints with the police and sought recognition of their possession through the Gram Panchayat. They are not trespassers but lawful possessors who have cultivated the property for over 90 years and have acquired ownership by adverse possession. Accordingly, they claim dismissal of the plaintiff's suit and a declaration of their legal rights over Survey No.74/11 through their counterclaim.

42. Learned Adv.Shri.S.S.Pirdankar on behalf of plaintiff submitted that, plaintiff is in possession of suit property Gat No.74/11 and Gat No.72/17 situated at village Rampur, Tal.Chiplun. Suit property is succeeded by plaintiff from his predecessors by way of tenancy right. Plaintiff has cultivated tree of Kinjal, Khair etc. in the suit property. Plaintiff has also constructed a cattle shed in the suit property. Defendant nos.1 to 16 are not having any concerned with the suit property. Defendants have claimed that, suit property originally owned by Shridhar Malashe. Defendants are in possession of suit property since last 90 years. However, defendants have not examined any member of Malshe family to prove their claim of adverse possession. Plaintiff has produced on record mutation entry bearing no.689 at Exh.86 and 87. On the contrary defendants have not produced on record any documentary evidence to show that, they are in actual & physical possession of suit property.

In the course of cross-examination of defendant witnesses they have admitted possession of plaintiff and obstruction caused by them to the plaintiff. Plaintiff has proved that, he is in possession of suit property. Hence, he prayed to decree the suit.

43. Per contra Ld. Advocate Shri.S.S.More on behalf of defendants/counter-claimants submitted that, present defendant/counter-claimants nos.1 to 5 and 7 to 16 have claimed relief of declaration of ownership by way of counter-claim. In respect of Gat No.74/11 situated at Village Rampur, Tal.Chiplun. Plaintiff has contended that, defendants/counter-claimants have broken fencing made by the plaintiff to the suit property. However, plaintiff has not given details of said fact in the plaint. Defendants/counter-claimants are in peaceful possession over the suit property in counter-claim. Shridhar Malshe was original owner of the suit property. On 1948 Krishna Malshe has died. After his death Pandurang Malshe became owner of the suit property in counter-claim being legal heir of Krishna Malshe. Plaintiff has claimed possession over the suit property only on the basis of 7/12 extract. Defendants/counter-claimants have examined 4 witnesses. Who have categorically deposed that, they are in long standing possession over the suit property in the counter-claim. Although, 7/12 extract of suit property is mutated in the name of plaintiff. He is not in actual and physical possession of the suit property. Hence, he prayed to dismiss the suit and decree the counter-claim.

44. At this stage, recourse to documentary evidence

adduced by the plaintiff is necessary. Plaintiff has produced on record 7/12 extract of Gat No.74/11 (at Exh.08) and 7/12 Extract of Gat No.72/17 (at Exh.09). On the perusal of 7/12 extract of Gat No.74/11 and Gat No.72/17 situated at Village Rampur, Tal.Chiplun it transpires that, name of Mohan Baban Bhuvad along with Sulochana Udeg, Karishma Gorivale and Anjira Bhuvad are mutated in owner column. On perusal of 7/12 extract Survey No.60/17 (at Exh.84) and Survey No.62/11 (at Exh.85) it transpires that, name of Pandurang Shirdhar Malshe is mutated in the owner column and name of Gunya Bal Bhuvad is mutated in the cultivation column. On perusal of Mutation entry bearing no.689 (at Exh.86) it transpires that, Survey No.62/11 and Survey No.60/17 mutated in the name of Gunya Bala Bhuvad as a tenant on 27.12.1953. On perusal of mutation entry no.2136 (at Exh.87) by way of Section 32(g) of B.T.A.L. Act name of Gunya Bal Bhuvad became protected tenant. Accordingly, certificate under Section 43 of B.T.A.L. Act came to be issued. In the course of cross-examination of P.W.1 it is brought on record that, name of grand-father of the plaintiff is Gunaji @ Gunya. He has further admitted that, father of the plaintiff i.e. Baban is the only son of Gunaji. He has further admitted that, Gat No.74 old Survey No.66/11 succeeded by him by way of tenancy. He has further admitted that, his great-grandfather left Village Shiral and started cultivation of agricultural land in Gat No.74/11 and Gat No.72/17. On the contrary, he has categorically denied that, defendants are in possession of Gat No.74/11.

45. D.W.1 to D.W.4 have categorically admitted in the course of cross-examination that, plaintiff Mohan Bhuvad is doing agricultural work since last 4 to 5 years. Name of plaintiff is mutated to Gat No.72/17 and Gat No.74/11. They have further admitted that, as on today, name of the plaintiff is mutated to Gat No.74/11 and Gat No.72/17 in the owner column of 7/12 extract. Defendants have not made any application before concern authority to mutate their name in the cultivation column of the suit property. This fact goes to show that, as on today, plaintiff is in peaceful possession of the suit property i.e. Gat No.74/11 and Gat No.72/17.

46. In suit for perpetual injunction factum of possession is only material factor. The Hon'ble Apex Court, In case of ***Rame Gowda (D) By Lrs vs M. Varadappa Naidu (D) By Lrs. & Anr, Civil Appeal No.7662/1997, AIR 2004 (SC)***, it observed that,

“the 'settled possession' must be (i) effective, (ii) undisturbed, and (iii) to the knowledge of the owner or without any attempt at concealment by the trespasser. The phrase 'settled possession' does not carry any special charm or magic in it; nor is it a ritualistic formula which can be confined in a strait-jacket. An occupation of the property by a person as an agent or a servant acting at the instance of the owner will not amount to actual physical possession. The court laid down the following tests which may be adopted as a working rule for determining

the attributes of 'settled possession' : i) that the trespasser must be in actual physical possession of the property over a sufficiently long period; ii) that the possession must be to the knowledge (either express or implied) of the owner or without any attempt at concealment by the trespasser and which contains an element of animus possidendi. The nature of possession of the trespasser would, however, be a matter to be decided on the facts and circumstances of each case; iii) the process of dispossession of the true owner by the trespasser must be complete and final and must be acquiesced to by the true owner; and iv) that one of the usual tests to determine the quality of settled possession, in the case of culturable land, would be whether or not the trespasser, after having taken possession, had grown any crop. If the crop had been grown by the trespasser, then even the true owner has no right to destroy the crop grown by the trespasser and take forcible possession.” It is further held that, “where a person is in settled possession of property, even on the assumption that he had no right to remain on the property, he cannot be dispossessed by the owner of the property except by recourse to law.”

47. In the facts of the case in hand, suit property Gat No.74/11 and Gat No.72/17 old Survey no.62/11 and Survey No.60/17 is allotted to Gunya Bala Bhuvad i.e. grandfather of

the plaintiff by way of tenancy in view of mutation entry no.689. After his death suit property succeeded by father of the plaintiff and after him present plaintiff is in the possession of suit property. The said mutation entry is not challenged by the defendants nor by their predecessor till today. Hence, plaintiff has proved that, he is in settled possession of the suit property. Hence, **I answer issue no.1 in the affirmative.**

48. Plaintiff has contended that, on 14.09.2020 defendant nos.1 to 16 entered illegally in the suit property and destroyed fencing of the suit property. The cause of action for institution of the suit arose on 14.09.2020. In the course of cross-examination of D.W.2 and D.W.3 have admitted that, plaintiff had filed complaint with the police station as defendants were obstructing his possession over the suit property. At this juncture it is relevant to note that "ouster" does not mean actual turning out or physical expulsion of the other. Denial of right of the plaintiff is also an act of ouster. The denial of right of plaintiff in pleading by defendants are also an act of ouster. Hence, plaintiff has proved that, defendant nos.1 to 16 obstructed his possession over the suit property. Hence, **I answer issue no.2 in the affirmative.**

49. Defendant nos.1 to 5 and 7 to 16 have claimed relief of declaration of ownership over suit property in counter-claim Gat No.74/11 on the basis of adverse possession. **Article 65** of the Limitation Act, 1963 defines the period to claim the plea of adverse possession. It specifies that the period of 12 years is a mandate to claim the same. However, the period of 12

years starts when the possession becomes adverse to the actual owner i.e. denial of title to the knowledge of true owner.

50. In Case of **Thakur Kishan Singh vs. Arvind Kumar : AIR 1995 SC 73** it has been held that,

“a permissive possession to become adverse must be established. Evidence must also be shown to prove the hostile animus and, finally, that the possession so taken was adverse to the knowledge of the actual owner. Also, irrespective of the length of time, merely giving the possession does not convert the permissive possession into adverse possession.”

Also in case of **Karnataka Board of Wakf V/s. Govt. of India (2-Judge Bench) MANU/SC/0377/2004 : 2004 : INSC:276 : (2004) 10 SCC 779**, it is held that,

“the physical fact of exclusive possession and the animus possidendi to hold as owner in exclusion to the actual owner are the most important factors that are to be accounted in cases related to adverse possession. Plea of adverse possession is not a pure question of law but a blend of fact and law. Therefore, a person who claims adverse possession should show: (a) on what date he came into possession; (b) what was the nature of his possession; (c) whether the factum of possession was known to the other party; (d) how long his possession has continued; and (e) his possession was open and undisturbed. A person pleading adverse possession has no equities in his favour.

Since he is trying to defeat the rights of the true owner, it is for him to clearly plead and establish all facts necessary to prove his adverse possession.”

51. In the facts of the case in hand, it is not the disputed suit property Gat No.74/11 and Gat No.72/17 were originally owned by Pandurang Shridhar Malshe. Defendants/counter-claimants have contended that, in the year 1953, upon the coming into force of the Record of Rights Act, the Government decided that the names of the persons who were actually in possession of the lands and cultivating them should be entered in the revenue records with the consent of the original owners. Accordingly, with respect to Survey No.72, Hissa No.17, Shri.Gunaji alias Gunya Bal Bhuvad requested Shri.Pandurang Shridhar Malshe to give his consent for recording his name in the revenue records. Initially, Shri.Pandurang Shridhar Malshe expressly refused to grant such consent. However, considering the poor financial condition of Shri.Gunaji alias Gunya Bal Bhuvad, he ultimately agreed, and accordingly Survey No.72, Hissa No.17 came to be recorded in the name of Shri.Gunaji alias Gunya Bal Bhuvad.

52. It is further contended that, at the relevant time, Survey No.74, Hissa No.11 was and continues to be in the possession of present defendants through their predecessors, who were cultivating the said land according to the extent of their respective possession. The produce from the land was being delivered by them to Shri.Pandurang Shridhar Malshe

and after his death, to his son Shri.Vidyadhar. Out of the total area of Survey No.74, Hissa No.11, 0H 70R 00P is in the possession of the predecessors of defendant No.2, 0H 85R 0P is in the possession of the defendant no.1, 0H 20R 0P is in the possession of the defendant no.15, 0H 17R 0P is in the possession of the defendant no.08 and the remaining 0H 15R 0P is in the possession of Shri.Bhikaji Balu Bendre. Accordingly, each of the aforesaid persons have been in separate and independent possession of their respective portion. The four boundaries and limits of each person's possession are clearly defined, and such possession has continued peacefully, openly, and uninterruptedly up to the present day. These facts were well known to the predecessors-in-title of the suit property, and at present, they are also known to their legal heirs.

53. It is relevant to note that, to substantiate claim of adverse possession by defendants/counter-claimants they have not examined any member of the family of the Pandurang Shridhar Malshe to show that, possession of defendants/counter-claimants is adverse to the knowledge of the true owner since last 12 years from the date of denial of title of the true owner. In the facts of the case in hand essential ingredients of plea of adverse possession i.e. *animus possidendi to hold as owner in exclusion to the actual owner* are not proved by defendants/counter-claimants. On the contrary defendants have admitted possession of the plaintiff over the suit property in the course of cross-examination. Hence, defendants/counter-claimants have failed to prove

that, they are owner of the suit property in counter-claim i.e. Gat No.74/11. Also, defendants/counter-claimants failed to prove their long standing possession over the suit property in counter-claim. As defendants/counter-claimants are not in possession of suit property in counter-claim. Hence, there is no question of obstruction to possession of defendants/counter-claimants by the plaintiff. Hence, **I answer issue nos.7, 8 and 9 in the negative.**

54. Plaintiff has contended that, defendants have damaged the suit property and thereby plaintiff sustained loss of Rs.25,000/-. However, the particulars of loss nor any photographs are produced on record by the plaintiff to show that, defendant caused loss of Rs.25,000/- to the plaintiff. Section 35A C.P.C. reads as under Section 35A C.P.C: Compensatory costs in respect of false or vexatious claims or defenses : (1) If in any suit or other proceedings (including an execution proceeding but (excluding an appeal or a revision) any party objects to the claim or defence on the ground that the claim or defence or any part of it is, as against the objector, false or vexatious to the knowledge of the party by whom it has been put forward, and if, thereafter, as against the objector, such claim or defence is disallowed, abandoned or withdrawn in whole or in part, the Court, (if it so thinks fit), may, after recording its reasons for holding such claim or defence to be false or vexatious, make an order for the payment to the objector by the party by whom such claim or defence has been put forward, of cost by way of compensation. (2) No Court shall make any such order for

payment of an amount exceeding (three thousand rupees) or exceeding the limits of its pecuniary jurisdiction, whichever amount is less. Provided that where the pecuniary limits of the jurisdiction or any Court exercising the jurisdiction of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887 (9 of 1887) (or under a corresponding law in force in (any part of India to which the said Act does not extend)) and not being a Court constituted (under such Act or law) are less than two hundred and fifty rupees, the High Court may empower such Court to award as costs under this Section any amount not exceeding two hundred and fifty rupees and not exceeding those limits by more than one hundred rupees.

55. In the facts of the case in hand, plaintiff has not brought on record anything to show that, he is entitled for compensation. Hence, **I answer issue nos.3 and 5 in the negative.**

AS TO ISSUE NOS.4, 10 AND 11 -

56. Section 38(3) of the Specific Relief Act provides that, "*when defendant invades or threatens to invade plaintiff's right to enjoyment of property, the court may grant perpetual injunction.*" As I have discussed plaintiff proved his possession over the suit property. On the contrary defendant/counter-claimants failed to prove their possession and ownership over the suit property in the counter-claim. Hence, plaintiff is entitled for decree of perpetual injunction. Defendants/counter-claimant not entitled for decree of

declaration against plaintiff. Hence, I answer issue no.4 in the affirmative, issue nos.10 and 11 in the negative.

AS TO ISSUE NO.6 AND 12 -

57. From the findings supra, I am inclined to decree the suit and dismiss counter-claim. In the result, in answer to issue no.6 and 12, I proceed to pass following order -

--:: ORDER ::--

- 1) Suit is partly decreed with costs.
- 2) Defendant no.1 to 16, their agents, servants or any other persons acting on behalf of defendant no.1 to 16 are perpetually restrained from causing obstruction to possession of the plaintiff over the suit property i.e. Gat No.74/11 and Gat No.72/17 situated at Village Rampur, Tal.Chiplun, Dist.Ratnagiri.
- 3) The counter-claim is dismissed. Defendants/counter-claimant shall bear their own Costs.
- 4) Decree be drawn up accordingly.

(Dictated and pronounced in open Court.)

Place - Chiplun
Date - 10.07.2026

(K. A. Powar)
C.J.J.D., Chiplun.

CERTIFICATE

I affirm that the contents of this PDF file Judgment/order are same, word to word, as per the original Judgment/order.

Name of Stenographer	Mr. Somnath J. Thorat
Name of Court	C.J.J.D. & J.M.F.C., Chiplun.
Date of publish	10.07.2026
Order Signed by the P.O. on	10.07.2026
Order Uploaded on	10.07.2026