

MHYA020009302010 	Presented on : 19.08.2010
	Registered on : 19.08.2010
	Decided on : 31.07.2026
	Duration : 15 Y. 11 M. 12 D.

IN THE COURT OF 3rd Jt. CIVIL JUDGE JUNIOR DIVISION,
AT YAVATMAL.

[Presided over by M.S.Poul]

REGULAR CIVIL SUIT NO.93/2010

EXH.196

1. **Laxmibai Uddhavrao Mirase,**
Age : 36 yrs, Occ : Agriculture,
2. **Pawan Uddhavrao Mirase,**
Age : 15 yrs, Occ : Nil,
3. **Devanand Uddhavrao Mirase,**
Age : 13 yrs, Occ : Nil,
(Minors through their mother i.e. plaintiff No.1
as a legal guardian plaintiff No.2 & 3)
All are R/o. Manpur, Tq. & Dist.Yavatmal.

...Plaintiffs

V E R S U S

1. **Satyabhamabai Narayan Mirase,**
(Died through her legal representatives)
2. **Vishwambhar Narayan Mirase,**
Age : 46 yrs, Occu- Agril,
3. **Vitthal Narayan Mirase,**
Age : 40 yrs, Occu- Agril,
4. **Raju Narayn Mirase,**
Age : 37 yrs, Occu- Agril,
All R/o. Manpur, Tq. & Dist.Yavatmal.

.....Defendants

Appearance:

Advocate for plaintiff : Mr. G. R. Rathod,
Advocate for defendants : Mr. R. S. Chavan

Suit for Permanent Injunction.**J U D G M E N T**

[Delivered on 31st July 2026]

1. This suit is filed for permanent injunction.
2. The subject matter of the suit is agricultural land bearing Gat No.4 admeasuring 7 Hector, 36 R situated at Mauza Manpur, bounded as-
 - Eastern side : Gaothan,
 - Western side : Field of Kundlik Pande,
 - Northern side : Field of Kawadu Murmure,
 - Southern side : Nala.(herein after referred as “suit property-1”)
3. An agricultural land bearing Gat No.161/3 admeasuring 1 Hector, 24 R situated At Mauza Manpur bounded as-
 - Eastern side : Forest area,
 - Western side : Road,
 - Northern side : Road,
 - Southern side : Field of Tukaram Wanjari,(*herein after referred as “suit property-2” & both properties herein after referred as "Suit properties"*).

4. The defendant No.1 is mother-in-law and defendant No.2 to 4 are brother-in-law of plaintiff. Sonba Mirase was grand father-in-law of the plaintiff. He had landed properties including suit properties. The suit property is ancestral properties. Plaintiff got married with Uddhav Mirase. He died on 28.02.2004. He was son of defendant No.1. The plaintiff blessed with two sons i.e plaintiff Nos.2 & 3.

5. The suit properties were in possession of Udhav Narayan Mirase since 1970 by way of Registered partition deed bearing No.956 dated 16.02.1970. It was executed between Sonba Humraji Mirase, Narayan Sonba Mirase, Udhav Narayan Mirase and Vishvamber Narayan Mirase. After demise of Udhav Mirase, suit properties were mutated in the name of plaintiffs vide mutation entry No.213. Since then the plaintiff is in peaceful possession of suit properties. In the partition, shares were allotted to defendants out of the property of Sonba Mirase along with the plaintiff. The defendants are threatening to plaintiff and disturbing peaceful possession of plaintiff.

6. On 13.08.2010 when plaintiff was going to suit properties for cultivating suit properties, defendants obstructed & beaten to plaintiff and abuse her in filthy language. They had threatened her not to cultivate suit properties otherwise she will face dire consequences. She went to Police Station, Yavatmal but there was no use. The plaintiff is owner and possessor of suit properties. She is entitled for perpetual injunction. Hence, instant suit.

7. The defendants caused their appearance and filed written statement at Exh.30. They denied all the averments in the plaint except relationship with plaintiff and contended that suit properties originally owned by Sonba Mirase. Narayan Mirase and his wife namely Satyabhamabai Mirase were old age and illiterate. They could not recorded their name in revenue record. Udhav Mirase was Karta of the family and defendants were minor. Udhav Mirase had recorded his name in revenue record. No partition taken place between plaintiff and defendants. Udhav Mirase during his lifetime had gifted suit properties to defendant No.3.

8. The defendants are in possession and cultivating suit properties. Possession of defendants shown in the report of spot inspection officer which was conducted by Tahsildar, Yavatmal. The defendants have sowed Tur, cotton, Soyabeen in the suit properties. The defendants have challenged the mutation entry before Sub Divisional officer, Yavatmal. The defendants are owner and possessor of suit properties. The plaintiff have no concerned with suit properties. Therefore, defendants prayed that suit should be dismissed with costs payable to the defendants. Hence, they prayed for dismissal of suit.

9. After going through the rival pleadings and submissions raised, my learned predecessor has recasted issues at Exh.43. I have reproduced the issues recorded my findings with reasons as follows;

Sr. No.	ISSUES	FINDINGS
1.	Whether plaintiffs prove their possession over the suit property ?	Yes
2.	Whether the plaintiffs prove the obstruction at the hands of defendants ?	Yes
3.	Are plaintiffs entitled for perpetual injunction as solicited ?	Yes
4.	What order and decree ?	The suit is decreed.

10. The plaintiff has examined herself as (PW-1) at Exh.50, her additional affidavits at Exh.91, 146, Shrikant Govindrao Pawade as (PW-2) at Exh.185, and she relied on documentary evidence i.e mutation entries and village form No.7 & 12 at Exhs.51 to 63, Death Certificate of Uddhav Narayan Mirase at Exh.64, copy of complaint dated 16.06.2012 at Exh.65, two First Information Reports at Exh.66 & 67 respectively, copy of certificate at Exh.68, copy of Oral Report at Exh.69, Partition-Deed at Exh.186, and closed her evidence at Exh.187. The defendant no.2 has examined himself Vishwambhar Narayan Mirase (D.W.1) at Exh.161, defendant No.3 Vitthal Narayan Mirase (D.W.2) at Exh.157 and closed evidence at Exh.188.

ISSUE No.1 :

11. To substantiate the claim of plaintiff, she has filed evidence affidavit at Exh.50 and additional evidence affidavits at Exh.91, 146 and she reiterated all the content of the plaint in the examination in chief. She deposed that she is wife of Uddhav Mirese.

plaintiff Nos.2 & 3 are her sons. She inherited suit properties from her husband namely Uddhav Mirase. As per partition deed dated 18.02.1970, the suit properties allotted to the share of Uddhav Mirase in the registered partition deed executed between Sonba Mirase, Narayan Mirase, Vishwambhar Mirase. Since 1970 her husband was owner and possessor of suit properties. Uddhav Mirase died on 28.02.2004.

12. She further deposed that, after his demise, the name of plaintiffs have been recorded in revenue record by way of mutation entry and since then they are owner and possessor of suit properties. Plaintiff during cross-examination admitted that as per partition deed 1970 the suit properties allotted to the share of her husband. She further admitted that even after her marriage she was residing in the joint family. The partition took place after her marriage. The 20 acres of land each both allotted to defendant No.2 and Uddhav Mirase.

13. She relied on village form No.7 & 12 at Exhs.51, 52, 54 to 60 mutation entries at Exh.53 & 61 to 63, partition deed at Exh.186, death certificate at Exh.64 While perusing registered partition deed dated 18.02.1970, it was executed between Sonba Mirase, Narayan Mirase, Uddhav Mirase and Vishwambhar Mirase. An agricultural land admeasuring 10 acres 27 Guntha out of Survey No.55 and 9 acre 30 Guntha out of survey No.3 was allotted to the share of Uddhav Mirase who was husband of plaintiff.

14. While perusing village Form No.7 & 12 and Gat No.4, 161/3 at Manpur, Yavatmal, it reflected that since 2004 the name of plaintiffs are recorded in the cultivation column of village form No.7 & 12, while perusing mutation entry No.213 of 2004, it shows that after the demise of Uddhav Narayan Mirase the name of plaintiffs have been mutated in the suit property by following due process of law.

15. Further it also depicts from mutation entry No.194/1982, 192/1982 and 69/1982 that name of plaintiff and defendant have mutated by way of partition. It transpires from the village form No.7 & 12 of Gat No.130, 129, 162, 132, 50 that the name of Satyabhama Mirase, Narayan Mirase, Vishwambhar Mirase, Rajur Mirase, Vitthal Mirase respectively, shown in cultivation column. The revenue entries or mutation entries does not confer any right, title or interest in favour of a person. It is made only for the fiscal purpose to pay revenue taxes until it is disprove but in the present case the defendant has not disprove the revenue entries. It is noteworthy to mention that, the plaintiff is claiming her possession over suit property on the basis of partition deed by way of inheritance.

16. Vishwambhar Mirase (DW-1) deposed that no partition took place between the parties. Due to illiteracy of defendant No.1 and her husband, they did not mutate their names in the revenue record. Being *karta* of the family, the Uddhav Mirase had record his name in the revenue record. The defendants have challenged the mutation entries before revenue authority, it is pending before the

authority for decision. They relied on village form No.7 & 12 of Gat No.162, village form No.8-A, mutation entry No.460/2014.

17. The revenue record shows that name of defendant Vishwambhar Mirase has been record in the Gat No.162 by way of mutation entry No.460/2014 by following due process of law. He appears to be owner and possessor of Gat No.162. As far as contention of defendant in respect of gifted suit properties in favour of defendants, defendants have failed to produce the document of gift-deed or any oral evidence on record to show that Uddhav Mirase had gifted suit properties in favour of Vishwambhar Mirase.

18. During cross-examination of Vishwambar Mirase, he admitted that as per partition deed, share was allotted to him. Civil suit was filed for partition wherein plaintiff no.1 was defendant. The suit came to be dismissed and Appeal is pending before Hon'ble District Court, Yavatmal. No copy of judgment or Appeal is filed on record. No document is filed on record which suggest that defendants have challenged mutation entry recorded in the name of plaintiff. Vithal Mirase (D.W.2) supported the version of Vishwambhar Mirase during his examination in chief but during cross-examination, he admitted that plaintiff is in possession of suit properties. It is to be noted that defendants have not pleaded in the written statement that they are exclusive in possession of suit properties. The contention in respect of possession is not supported with documentary evidence.

19. To prove the partition deed, the plaintiff has examined Shrikant Pawade (PW-2). He is registrar, Sub-Registrar Office, Yavatmal. He deposed that the content of certified copy of partition deed placed on record are the same of partition deed which is kept with his office copy. Both partition deed are one and the same. The learned counsel for the defendant tried to bring on record alteration and change in partition deed but he succeeded bring on record that there is no thumb impression on either partition deed but defendants No.2 to 4 were minor. He specifically denied that on the accord of plaintiff, the office has placed partition deed on record. He flatly refused that the partition deed did not execute in the Sub-Registrar Office, Yavatmal.

20. It appears from the testimony of the registrar that the partition deed was validly executed on 18.02.1970. The defendants have not challenged the partition deed in the suit nor they have filed any claim against the plaintiff in respect of partition in the suit properties. The plaintiff has proved that the partition deed was executed between Sonba Mirase, Narayan Mirase, Uddhav Mirase and Vishwambhar Mirase. The defendants have categorically admitted during their cross-examination the said partition deed was executed between them.

21. It is contention of the defendants that the partition deed was not executed between them. As per Section 101 of Indian Evidence Act, the party who come to the Court to get the decision on any legal right or liability depending upon existence of a certain fact,

which he asserted, he carried the burden of proof. It is a duty of defendants to prove that the partition did not take place between parties. The registered document carries a strong presumption of validity and genuineness and cannot be causally disregarded as a nominal sham.

22. The plaintiffs have proved that the suit properties are inherited by Uddhav Mirase after his demise. The share was allotted to the Uddhav Mirase i.e. suit properties. The plaintiffs are owner as well as possessor suit properties. On the contrary, defendant failed to prove that the partition is not taken place between parties as well as suit properties are gifted in favour of defendants. In view of above discussion, I answer issue No.1 in affirmative.

ISSUE No. 2 :-

23. The plaintiff has deposed that on 13.08.2010, when plaintiff was going for cultivation, the defendants caused obstruction to her peaceful possession over the suit properties. It has been deposed by the plaintiff that defendants are trying expel her from the suit properties. She lodged report with Police Station Yavatmal Rural against defendants in respect of obstruction.

24. She relied on First Information Report No.3030/2010 dated 17.06.2010 and First Information report No.3043 of 2012 dated 17.06.2012. It shows that the plaintiffs have lodged reports against the defendants that defendants have obstructed to the

possession of plaintiff over suit property and abused her. Vithal Mirase (D.W.2) during cross examination admitted that the plaintiff has lodged report against defendants for the offence punishable under section 323, 504, 506 (2), 34 of Indian Penal Code for obstruction. It is come on record that the defendants have obstructed to the possession of plaintiff over suit properties. Therefore, upon considering these entire facts and circumstances, I have no hesitation to hold that the defendants are causing obstruction to the peaceful possession of the plaintiff over the suit properties. Accordingly, I record the finding of issue No.2 in the affirmative.

ISSUE No.3 :-

25. In view of the discussion and finding, it has become crystal clear that the plaintiff has proved her ownership and possession over the suit properties and the defendants are causing obstruction to his peaceful possession over the same. In order to grant the relief of perpetual injunction, it is not necessary to prove the title over the suit property. Mere proof of the settled possession over the suit property is sufficient to claim the perpetual injunction against the obstructer.

26. Apart from that, perpetual injunction is substantial relief and can be claimed even in absence of ancillary relief of declaration. Therefore, on this count also the plaintiff becomes entitled to the relief of perpetual injunction as she has proved that she is in settled possession of the suit properties and the defendants are causing

obstruction to her peaceful possession over the suit properties. In such circumstances, the plaintiff is entitled for relief of perpetual injunction. Accordingly, I record the finding of issue no. 3 in the affirmative.

ISSUE No.4 :

27. In view of the discussion and reasons given in issue No.1 to 3 and upon considering the nature of the present suit and circumstances involved therein, it will be convenient to direct the parties to bear their own costs. Accordingly, I pass the following order

ORDER

1. The suit is decreed with costs.
2. The defendants, any person on behalf of defendants are hereby restrained from causing obstruction to the peaceful possession of the plaintiffs over the suit properties.
3. The decree be drawn up accordingly.

Date : 31.07.2026

(M.S.Poul)
3rd Joint Civil Judge Junior Division,
Yavatmal.