

MHNG020009682017



Presented on : 03-03-2017

Registered on : 08-03-2017

Decided on : 17-06-2025

Duration : 08Yrs-03Ms.09Ds

PART-A

<u>IN THE COURT OF 13th JT. C.J.S.D. & A.C.J.M, NAGPUR</u> [Presided over by Abhijit S. Atre] [Judgment delivered on this 17th day of June,2025] Regular Civil Suit No.271/2017 Exhibit - 44	
PLAINTIFF :	1] Anil Kawadu Deshmukh and other, Aged: 48 years, Occupation : Cultivator, R/o. 172, Chandranagar, Behind Bhagwan Nagar, Nagpur 2] Vijay Kawadu Deshmukh Age: 42, Occupation : Cultivator, 3] Dnyaneshwari Vasantrao Kawalkar Age: 44, Occupation : Cultivator, Plaintiff No.2 and 3 are - R/o. New Area In Front of Radheshyam School, Tandapeth, Nagpur.
REPRESENTED BY	Advocate Shri. B. A. Jethe
DEFENDANT:	1] Sunil Kawadu Deshmukh and other Age: 52, Occupation : Private, R/o. New Area In Front of Radheshyam School, Tandapeth, Nagpur. 2] Sanjay Kawadu Deshmukh Age: 50, Occupation : Private R/o. New Area In Front of Radheshyam School, Tandapeth, Nagpur. 3] Manoj Nilkanth Kurjekar Age: 30, Occupation : Private,

	4] Vikky Nilkanth Kurjekar, Age: 23, Occupation : Private, 5] Manisha Mangesh Kotangade Age: 26, Occupation : Private, C/o. Vikky Kurjekar, Defendant No.3 to 5 are R/o Sonbaji Nagar, Near Ganpati Temple New Bhandara Road, Nagpur. 6] Shobhabai Sewakram Gaidhane, Age: 58, Occupation : Private, R/o. Behind House of Sawwalakhe, Somwari Peth, Raghuji Nagar, Nagpur. 7] Vinod Ramashray Tripathi, Age: 42, Occupation : Private, R/o. 60, Usman Layout Gopal Nagar, Nagpur.
REPRESENTED BY	Advocate Shri. H.D. Dangre

J U D G M E N T

(Delivered on this 17th day of June, 2025)

This is a suit for declaration and perpetual injunction.

2. **Brief facts of the suit are as under :-**

The plaintiffs state that they and defendant No.1 and 2 are the legal representatives of deceased Sakawaribai. She died on 31/01/2013 leaving behind her plaintiffs, defendant No.1 and 2 and deceased Usha Kurjekar. The defendant No.3 to 5 are the legal representatives of deceased Usha. Deceased Sakawaribai and

defendant No.6 owned and possessed agricultural land bearing survey No.32/3, situated at Mouza Dhamna, P.H. 36, admeasuring about 1.70 hectors. It is submitted that Sakawaribai and the defendant No.6 sold 0.85 R land out of said land to the defendant No.7 for Rs.15,00,000/-. Sale deed was executed on 24/01/2013. On 12/002/2017 the defendant No.7 went to the house of plaintiffs with one document and asked them to sign the same. On the inquiry of plaintiffs the defendant No.7 told them that Sakawaribai had executed sale deed of entire survey No.32/3 in his name. Hence, for the mutation purposes he wanted confirmation. It is submitted that the defendant No.6 and late Sakawaribai never sold entire survey No.32/3 to the defendant No.7. Hence, the plaintiffs has filed present suit for declaration and perpetual injunction against the defendant No.7.

3. Only the defendant No.7 contested the suit by filing his written statement at Exh.23. In his written statement it is submitted that on 06/10/2009 late Sakawaribai and the defendant No.6 executed a general power of attorney in respect of survey No.32/3. It is submitted that the suit property has already been sold out by the defendant No.7 to some other person. Therefore, neither the defendant No.1 to 5 and 7 nor the plaintiffs are in possession of any portion of said property. Hence, there is no cause of action to file present suit. The defendant No.7 prays for dismissal of the suit.

4. I have heard the learned advocate for defendant No.7.

5. Plaintiffs and their advocate are absent.

6. The plaintiffs have filed following documents on record which I have gone through -

Sr.No.	Exhibit	Documents
1	31	7/12 extract
2	32	Extract of 8/12
3	33	Patwari Map
4	34	Mutation Entry
5	35	Mutation Entry
6	36	Revenue Tax Receipt

7. The defendant No.7 has not filed documents on record.

8. My learned predecessor framed issues at Exh.24. I reproduce the same and record my findings thereon together with the reasons therefor as under:-

Sr. No.	Issues	Finding
1	Do plaintiffs prove that they are joint owner of suit property alongwith defendant No.1 to 6 ?	...In negative.
2	Are plaintiffs entitled for the declaration as prayed ?	...In negative.
3.	Are plaintiffs entitled for the permanent injunction as prayed ?	...In negative.
4.	What order and decree ?	Suit is dismissed with costs.

REASONS

AS TO ISSUES NO.1 to 3:

As these issues are interlinked I decide them together.

9. The plaintiff No.1 Anil Kawadu Deshmukh is examined at Exh.30. He has reiterated all the averments those in the plaint. Hence, the same need not be repeated. He has proved the documents at

Exh.34 to 36. The plaintiff No.1 in his cross examination conducted by the learned advocate for the defendant No.7 as admitted that Exh.43 is the copy of sale deed dated 24/01/2013 executed in the name of the defendant No.7. He has admitted the contents of said document. It is also admitted that the defendant No.7 has sold out the property mentioned in Exh.43 and is not in possession of the same. On perusal of Exh.43 it appears that its subject matter is the entire survey No.32/3. Hence, there is no merit in the contention of the plaintiffs that the defendant No.6 and late Sakawaribai had sold only 0.85 R land to the defendant No.7. Admittedly, entire suit property has been sold out to the third person. Therefore, neither the plaintiffs nor the defendant No.1 to 7 have any right, title and interest in the suit property. Therefore, the plaintiffs have failed to prove that they are the joint owners of the suit property alongwith the defendant No.1 to 6. As a result the plaintiffs are not entitle for any relief. Hence, I answer Issue No.1 to 3 in negative and pass following order:-

ORDER

1. The suit is dismissed with costs.
2. Decree be drawn accordingly.

(Judgment pronounced in open court).

Place – Nagpur
Date –17/06/2025

(A.S. Atre)
13th C.J.S.D. & A.C.J.M.,Nagpur

Case argued on : 12/06/2025
Judgment dictated on : 17/06/2025
Transcription ready on : 17/06/2025
Judgment checked and signed on : 17/06/2025

Place – Nagpur
Date –17/06/2025

(A.S. Atre)
13th C.J.S.D. & A.C.J.M., Nagpur

CERTIFICATE

I affirm that the contents of this P.D.F. file judgment are same word to word, as per the original Judgment.

Date –17/06/2025

(M.Y. Mushtaque)
Stenographer Gr. II