

ORDER BELOW EXH. 01

The present application has been filed seeking permission to file separate suit for pre-emption vide Order II Rule 6 of the Code of Civil Procedure.

2. It is the case of the applicant that, he has filed a suit for partition and separate possession vide RCS No. 45/2021 against these defendants, in respect of the property bearing block No. 242/3, situated at village Tonde, Taluka Shirpur, District Dhule. However, during the pendency of the suit, the defendants alienated the suit property on 25.05.2022 by executing registered sale deed No. 2338 of 2022 for consideration of Rs.3,75,000/-. As the property is a Hindu joint family property of the plaintiff and defendants, the plaintiff has preferential right to purchase it. Nevertheless, defendants alienated it to a third party, which caused the plaintiff to file separate suit for pre-emption. As the cause of action arose during the pendency of an earlier suit, by present application, the plaintiff is seeking permission to file a separate suit for pre-emption regarding the same property.

3. Despite appearing, respondents failed to file their say on the application, hence the application proceeded ex-parte vide order dated 18.08.2023. Later on, respondents got the said order set aside vide Order dated 13.10.2023, subject to cost of Rs.200/-. Despite giving

sufficient opportunities, respondents failed to comply with the mandatory condition imposed by the said order, hence, order dated 13.10.2023 was stand cancelled and the present application again proceeded without say.

4. Perused the application and documents on record. Heard the learned advocate for the applicant at length. Before going into the merit of the application, it is necessary to go through Order II Rule 6 of the Code of Civil Procedure which reads as under;

6. Power of Court to order separate trials - "Where it appears to the Court that the joinder of causes of action in one suit may embarrass or delay the trial or is otherwise inconvenient, the Court may order separate trials or make such other order as may be expedient in the interests of justice"

5. Bare reading of above rule it is clarified that, this rule empowers the court to order separate trials or makes such order as necessary **if the joinder of multiple causes of action in a single suit appears to embarrass, delay the trial or is otherwise inconvenient.** The object of the above rule is to prevent complex, confusing, or delayed proceeding that arise when too many distinct, unrelated, or inconvenient cause of action are combined in one suit. This power is invoked by the court when court believes that it is expedient in the interest of justice and thereby court can order separate trial for different causes of action

or direct the exclusion of certain cause of action or strike out cause of action that cannot be conveniently tried together. This rule is often apply when the joinder of plaintiff's or defendants causes confusion or complicates the trial process, even if they technically arise from common causes of action.

6. The present application is filed seeking permission to file separate suit for pre-emption. Filing a suit is the statutory right of the party and they do not need prior permission from the court to exercise their right. Although the applicant sought permission to file separate suit for pre-emption, the court cannot restrain a person to exercise to his statutory right. In the present senior the applicant did not need to seek prior permission for exercising his statutory right. The above provision is made for the different purpose. In the result, I proceed to pass the following order.

ORDER

- 1] This Civil Miscellaneous Application is hereby disposed of by directing the administrative authority to register this application as regular civil suit subject to the law of limitation.
- 2] Parties to take note of it.
- 3] No order as to costs.

Shirpur.
Date :- 18.02.2026

Husna R. Khan
Jt. Civil Judge J.D., Shirpur.

CERTIFICATE

*I certify that the contents of the PDF File are word to word as per
Original Judgment / Order.*

Name of the Steno : M. M. More
Name of the Court : Jt. C.J.J.D. & J.M.F.C., Shirpur.
PDF Uploading Date : 18.02.2026