

Common Order below Exh.1 & 102 in R.C.S No.567/2012

(CNR No. : MHAH08-0036922014)

1. Plaintiffs have filed this suit by filing the plaint along-with Schedule of map and amended plaint (Exh.1, 1A) against defendant Nos.1 to 11 and they have claim several reliefs i.e. a) partition and possession of their 1/3 undivided share in suit properties described in para No.1 of the plaint and b) for grant of relief of perpetual injunction restraining defendants from alienating or creating third party interest in suit properties and to restrain these defendants from causing obstruction towards the cultivation of the plaintiffs in respect of their shares.

2. Defendant Nos.9 has filed his written statement (Exh.30), defendant Nos.1 & 5 have filed their written statement and counter-claim (Exh.36). Defendant Nos.4 & 8 have filed the pursis (Exh.46) adopting the W.S. and counter-claim below Exh.36. The other defendant Nos.2 to 4, 6 to 8 are proceeded with “No Written Statement” order passed below Exh.1.

3. Plaintiffs have filed the written statement to counter-claim below Exh.40.

4. Issues were framed below Exh.53 on 08/12/2015 and the same are re-casted below Exh.53 on 24/11/2016.

5. Plaintiffs have examined PW.1- Annasaheb (Exh.55) and defendant Nos.1 to 8 have cross examined the said witness. Thereafter, evidence of defendant Nos.1 to 9 is closed vide order dt.09/04/2025 passed below Exh.1.

6. The defendant No.9 is permitted to give his evidence vide order dt.10/06/2025 passed below Exh.1 and 99 and accordingly, he has filed his evidence affidavit i.e. DW.9- Dilip (Exh.101).

7. During the pendency of the proceeding at above stage, the defendant No.9 has filed the application (Exh.102) for re-casting of issues by framing the following issue i.e. Does the defendant No.9 proves that, he has become the owner of block No.485 Admn. 0 H. 42 R. vide sale deed dt.17/04/1971 ?

8. Plaintiffs and other defendants have opposed the said application by submitting that, already issues are re-casted below Exh.53A on 24/11/2016.

9. Heard, Adv. K.S. Ghodke for defendant No.9. He has submitted as per the contents of the application (Exh.102) and has prayed for framing the issue mentioned in said application.

10. On considering the submissions made, I have perused the pleading of the parties in plaint and amended plaint (Exh.1 & 1A), W.S. and counter-claim of defendant Nos.1 and 5 (Exh.36), W.S. of plaintiffs on counter-claim (Exh.40), and W.S. of defendant No.9 (Exh.30), along-with the re-casted issues (Exh.53A).

11. The suit properties in the plaint and amended plaint (Exh.1 & 1A) are as follows i.e. a) land out of Gat No.485 Admn. 0 H. 30 R. + pot kharaba 0.03 R. (Total 0 H. 33 R.), b) land out of Gat No.575 Admn. 0 H. 44 R. + pot kharaba 0.09 R. (Total 0 H. 53 R.) both situated at village Saykhindi, Tal. Sangamner along-

with common well situated in these lands.

12. Defendant Nos.1 and 5 have claim the following relief in counter-claim (Exh.36) i.e.

A) to declare that, there is partition amongst defendant Nos.1 to 4 and 5 to 8, as described in para No.17A i.e. a) land out of Gat No.485 Admn. 0 H. 45 R. + pot kharaba 0.05 R. (Total 0 H. 50 R.) and b) land out of Gat No.575 Admn. 0 H. 66 R. + pot kharaba 0.13 R. (Total 0 H. 79 R.) both situated at village Saykhindi, Tal. Sangamner have gone to the share of defendant Nos.1 to 4 and as described in para No.17B i.e. a) land out of Gat No.485 Admn. 0 H. 45 R. + pot kharaba 0.05 R. (Total 0 H. 50 R.) and b) land out of Gat No.575 Admn. 0 H. 66 R. + pot kharaba 0.13 R. (Total 0 H. 79 R.) both situated at village Saykhindi, Tal. Sangamner have gone to the share of defendant Nos.5 to 8.

B) to declare that, the original plaintiffs are not having any concern relating to the following lands i.e. a) land consisting of Gat No.485 Admn. 0 H. 90 R. + pot kharaba 0.10 R. (out of the Total land Admn. 1 H. 20 R. + pot kharaba 0 H. 14 R) and b) land consisting of Gat No.575 Admn. 1 H. 32 R. + pot kharaba 0 R. 26 R. (Total 1 H. 58 R.) both situated at village Saykhindi, Tal. Sangamner.

13. On considering the description of suit properties mentioned in the pleadings of plaintiffs, defendant Nos.1 and 5 and defendant No.9 who is the purchaser of agriculture land in Gat No.485 Admn. 0 H. 42 R. vide sale deed document dt.17/04/1971, I feel it appropriate to re-cast the issues below Exh.53A, by framing specific issues by describing the suit

properties in plaint and counter-claim as per the pleadings of the parties, which are mentioned in the re-casted issues below Exh.53B. Accordingly, I proceed to pass the following order.

: ORDER :

- A) The application for recasting of issues is allowed by framing the re-casted issues below Exh.53B.
- B) The application (Exh.102) is disposed off accordingly.
- C) The re-casted issues (Exh.53B) be kept below earlier issues.
- D) Parties and Advocates to note.

Date : 24/07/2025
Sangamner.

(B.N. Arbad)
3rd Jt. Civil Judge, Senior Division,
Sangamner, Dist. Ahmednagar.

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

Name of Stenographer	Shri. P. R. Satpute
Name of Court	Shri. B.N. Arbad, 3 rd Jt. Civil Judge, S.D., Sangamner.
Date of Dictation	24/07/2025
Order signed by the P.O.on	24/07/2025
Order uploaded on	24/07/2025