

**BEFORE THE DISTRICT JUDGE – 2, NEWASA**  
**TALUKA : NEWASA, DISTRICT : AHMEDNAGAR.**

**ORDER ON EXH.36. IN RCA NO.03/2024**

1. This application is filed by appellants (original defendant Nos. 8 & 9) for staying the decree in RCS No.389/2008.
2. Plaintiff Ujvala Hapse has filed suit for partition and separate possession of 1H-2R land in Gat No.564 with averment that it is her ancestral property, defendant No.1 who is her father without legal necessity sold 50R land on 10/02/1998 to defendant No.7.
3. During pendency of the suit, defendant No.7 sold 25R land to defendant No.8 and 25R land to defendant No.9.
4. The suit was decreed on 24/03/2022. Plaintiff and each of defendant Nos. 1 to 6 were given 1/7th share in Gat No.564, 1H-2R land. Plaintiff has filed execution petition R.D.No.115/2023. The decree was sent to Collector as per section 54 of CPC.
5. Today, appellants have filed Mutation Entry No.7808. From this Mutation Entry, it can be gathered that plaintiff, defendant Nos. 1 to 6 each would get the portion of land as share, as shown in the Mutation Entry.

6. Ld. Advocate for appellants submitted that appellants are required to challenge the Mutation Entry before the Divisional Commissioner as no portion is given to appellants who are defendant Nos. 8 & 9 in the original Suit.

7. However, in the decree shares are given to defendant No. 1 to 6. It is not ordered in the decree that share of defendant No.1 should be adjusted to share of defendant No. 8 & 9.

8. Ld. Advocate for appellants submitted that plaintiff had filed suit with averment that defendant No.1 has alienated 50R land in year 1998. Her suit filed in year 2008 is hopelessly bared by period of limitation. Further, he argued that by the newly amended Section 6 of the Hindu Succession Act, alienation made prior to year 2004 can not be challenged.

7. In short, it is case of appellants that they had good case on the law points to succeed in the appeal and for that they have urged to stay the execution.

8. It is pertinent to note that on the orders of Collector acreage of shares of plaintiff and defendant Nos. 1 to 6 are determined. It is in accordance with the decree as in the decree shares are given to plaintiff and defendant Nos. 1 to 6 only. There was no question to allot any portion

to defendant Nos. 8 & 9.

9. It is worth necessary to mention here that defendant Nos. 8 & 9 had purchased the portions on 20/03/2012 i.e. during pendancy of the suit. It will not be proper at this stage to stay execution favouring defendant No. 8 & 9 who are purchaser of the pendente-lite . Hence, this application is rejected.

Date :- 24/06/2025

[ **R. R. Hastekar** ]  
District Judge – 2 Newasa  
Dist. Ahmednagar