

RCS No.: 282/2023 (J.)

Rekha Garje vs. Gramsevak and Ors..

CNR:MHAH200014842023



Received on : 16.09.2023

Registered on : 20.09.2023

Decided on : 09.03.2026

Duration: 2Yrs. 5Months 23days

IN THE COURT OF JT. CIVIL JUDGE JR. DIVISION, PATHARDI
(Before Shirishkumar D. Waghmare)

Regular Civil Suit No.: 282/2023

Exh. No.: 34

1. **Rekha Vyankatrao Garje,**
Age: 75 Years,
Occu. Agri,
R/o. Akole Tal. Pathardi Dist. Ahmednagar.
Versus

.. *Plaintiff*

1. **Gramsevak, Grampanchayat, Akole**
Tal. Pathardi Dist. Ahmednagar.

2. **Jyoti Ganesh Khade**
Age: 44 Years, Occu. Agri.
R/o. Akole Tal. Indapur Dist. Pune

3. **Aarti Hemant Vanave**
Age: 40 Years, Occu. Agri.
R/o. Borgaon Tal Walwa Dist. Sangli.

...*Defendants*

.....
Suit for Declaration of Civil Death and Heirship.
.....

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Appearance:-

Plaintiff : Learned Adv. Shri. D. C. Pandhare.

Defendant No. 1 Ex-parte.

Defendant No.2 and 3 : Learned Adv. Shri. R. N.
Thombare

J U D G M E N T

(Delivered on 9th March, 2026)

1. The plaintiff has filed this suit for declaration of Civil Death and heirship of her son Manoj Vyankatrao Garje as he was missing since 01.05.2007.

Brief facts of the plaintiffs' case are as under:

2. The plaintiff is permanent resident of village Akole Tal. Pathardi Dist.Ahmednagar. The plaintiff pleaded that, she married with Vyankatrao Amrutrao Garje in May, 1997. Out of the said wedlock she gave birth to two daughters and one son. She further pleaded that, defendant No. 2 and 3 are married and are residing at their matrimonial houses. While her son Manoj Vyankatrao Garje was taking education of B.H.M.S at Amaravati and was residing in a rented room of Keru Aappa Ekhe. She further pleaded that, her son left the rented room and did not returned hence her husband lodged report with Rajapeth Police Station, Amaravati on 01.05.2007. Thereafter, her husband died on 07.09.2022.

3. The plaintiff further pleaded that, after the death of her husband the names of defendant No.2, 3, herself and Manoj were taken by the

Revenue Authorities vide mutation entry No.9140. However, her son till today had not returned to home. Thereafter, on 22.04.2023 she published notice in daily Vidarbha Kesari newspaper. So also, on 03.05.2023 issued notice in daily Matrubhumi Amravati. Despite these public notices her son did not returned to home. She further pleaded that, for the purpose of family pension she requires consent of her son and daughters. However, as her son is missing she is facing difficulty in getting the family pension which is required for her day to day medicines and needs. She prayed to declare Civil Death and heirship of her son Manoj Vyankatrao Garje.

4. Despite service of summons defendant No.1 failed to appear and file Say to the present suit. Therefore, the suit proceeded Ex-parte against him vide order dated 03.11.2025. Defendant No. 2 and 3 appeared and admitted the suit.

5. Considering the pleadings of plaintiff and documents on record following points arise for determination and I have recorded my findings thereon for the reasons discussed there-in-after.

<u>S.N.</u>	<u>Issues</u>	<u>Findings</u>
1.	Whether the plaintiff proves that Manoj Vyankatrao Garje is missing since 01.05.2007 and he is unheard since then?	: <i>In the Affirmative</i>

2. Whether the plaintiff is entitled to the : *In the Affirmative*
declaration that Manoj Vyankatrao Garje
is dead with effect from 02.05.2014. ?
3. Whether plaintiff proves that, along with : *In the Affirmative*
defendant No.2 and 3 she is the legal heir
of Manoj Vyankatrao Garje?
4. What order and decree ? : *Suit is decreed.*

REASONS

As to Point No.1:

6. The learned Advocate for plaintiff Shri. D. C. Pandhare submitted that, after the death of plaintiff's husband she requires money for her livelihood and medical needs. He further submitted that, for the purpose of getting family pension the consent of plaintiff's son and daughters is necessary. He lastly submitted that, as plaintiff and defendant No. 2 and 3 are the legal heirs of her deceased husband and son the declaration about their heirship and civil death of plaintiff son is necessary. He prayed to decree the suit.

7. Defendant No.1 is placed exparte and defendant No. 2 and 3 have admitted the suit. Therefore, no evidence as well as arguments were advanced by them.

8. The plaintiff has examined herself at Exh. 22 as P.W.1. She has

stated in the affidavit that her son Manoj Vyankatrao Garje is missing since 01/05/2007 and since then whereabouts of Manoj are not known. It has also come in her evidence that, her husband died on 07.09.2022 and along with her defendant No. 2 and 3 are the only legal heirs of Manoj and her husband. Hence, she prayed that the civil death of Manoj be declared alongwith declaration of heirship.

9. In support of her claim plaintiff has filed mutation entry No.9140 Exh.PW-23. It shows that, after the death of Vyankatrao Amrutrao Garje the names of plaintiff, defendant No.2, 3 and Manoj Vyankatrao Garje were taken on record in respect of Block No.103/1, 57/2/B and 59 respectively. At Exh.24 plaintiff has filed the 8-A extract of Khate No.1272. It shows the names of plaintiff, defendant No.2, 3 and Manoj Vyankatrao Garje. The plaintiff has filed 7/12 extracts of Block No. 103/1 at Exh.PW-25, 57/2/B at Exh. PW-26 and 59 at Exh.PW-27. Plaintiff has filed the Certified copy of Missing Register extract at Exh.PW-28. It shows that, entry regarding her son is taken in the register on 01.05.2007. It also shows the above mentioned names. The plaintiff has filed Death Extract of her husband at Exh.PW-29.

10. The plaintiff has filed the public notices given regarding her missing son at Exh.PW-30 to PW-32. The same shows that, her son is missing since 01.05.2007. Defendant No. 2 and 3 have already admitted the suit. Defendant No.1 is placed Ex-parte. Therefore, the evidence adduced by plaintiff remained unchallenged. The documentary evidence

adduced by the plaintiff supports her claim. It is well settled that, in civil cases the proof which is required is preponderance of probabilities. Therefore, the evidence adduced by the plaintiff passes the test of preponderance of probability. Hence, I have answered **point No.1 in Affirmative.**

As to Point No. 2:

11. The plaintiff is asking relief of declaration that Manoj has sustained Civil death. As per section 34 of Specific Relief Act, 1963, any person entitled to any legal character or to any right as to any property, may institute suit against any person denying or interested to deny his title to such character or right. In the present suit, the plaintiff has pleaded that, for the sake of family pension and heirship declaration the civil death of Manoj is required. Though, the plaintiff arrayed defendant No. 1 to 3 as parties who are entitled to deny the legal character of Manoj. They have not contested the same. Hence, in my considered opinion plaintiff is entitled for the relief of declaration u/s. 34 of Specific Relief Act, as prayed. Hence, I have answered **point No.2 in Affirmative.**

As to Point No. 3:

12. The plaintiff in addition to the relief of declaration of Civil Death of Manoj has also claimed declaration to the effect that, she and defendant No. 2 and 3 after the death of her husband and father of defendant No. 2 and 3 are the only Legal Heirs of Manoj. As already

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discussed defendant No. 2 and 3 have admitted the suit and defendant No.1 has not contested the suit as he was placed Ex-parte. Therefore, the evidence adduced by plaintiff remains uncontroverted. So also, no one raised a claim contrary to that of the plaintiff. Therefore, the plaintiff is entitled to the declaration regarding heirship of Manoj. Hence I have answered **point No.3 in the Affirmative.**

As to Point No. 4:

13. In view of above discussion, observation and findings on points, the suit deserves to be decreed. Hence, in answer to this point I proceed to pass the following order.

: O R D E R :

1. The suit is decreed.
2. It is hereby declared that plaintiff's son Manoj Vyankatrao Garje met with civil death with effect from 02.05.2014.
3. It is hereby declared that, plaintiff, defendant No.2 and 3 are the Legal Heirs of Manoj Vyankatrao Garje.
4. No order as to costs.
5. The decree be drawn up accordingly.

(Dictated directly on computer to the stenographer, script checked, revised and pronounced in the open court)

Pathardi.
Date: 09/03/2026

(Shirishkumar. D. Waghmare)
Jt. Civil Judge, Jr.Dn., Pathardi.

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I affirm that the contents of this P.D.F. file order/judgment are same word for word as per original judgment.

Name of steno : Rohini Amate,

*Name of court : Shirishkumar. D. Waghmare,
Jt. C.J.J.D.& J.M.F.C., Pathardi.,*

Date : 09.03.2026

Judgment/order signed by Presiding Officer on : 09.03.2026

Judgment/order uploaded on : 09.03.2026