

Regular Civil Suit No. 81/2007.
Gajanan & ano. V/s. Bhavanrao & ors.

CNR No: MHBI130017072007.
JUDGMENT (Exh. 236/A)



Presented on : 17/07/2007.
Registered on : 17/07/2007.
Decided on : 25/03/2026.
Duration : YY MM DD
18 08 08

IN THE COURT OF CIVIL JUDGE JUNIOR DIVISION
AT. PARLI VAJNATH, DISTRICT BEED.

(Presided over by: Dipak R. Borde)

REGULAR CIVIL SUIT NO. 81/2007.

Exhibit No. 236/A.

01. **Gajanan S/o. Bhavanrao Deshmukh,**
Age : 23 Years, Occ : Education,
R/o. Peth Galli, Parli V, Dist. Beed.
02. **Sonali D/o. Bhavanrao Deshmukh,**
Age : 25 Years, Occ : Education,
R/o. As above.

.....Plaintiffs

Versus

01. **Bhavanrao S/o. Shivajirao Deshmukh,**
Age : 53 Years, Occ : Agri.,
R/o. Peth Galli, Parli V, Dist. Beed.
02. **Shailaja W/o. Bhavanrao Deshmukh,**
Age : 43 Years, Occ : Household,
R/o. As above.
03. **Shashikant S/o. Manikrao Deshpande,**
Age : 43 Years, Occ : Service,
R/o. Deshpande Galli, Parli V, Dist. Beed.

- 04. Ashok S/o. Vajinath Sangle,**
Age : 31 Years, Occ : Agri.,
R/o. Vidhya Nagar, Parli V, Dist. Beed.
- 05. Pralhad S/o. Arun Chaudhari,**
Age : 27 Years, Occ : Agri.,
R/o. Selu P, Tq. Parli V, Dist. Beed.

..... Defendants

Claim : Suit for partition and separate possession,
cancellation of sale deed and sale deed is not
binding upon them.

Appearances :

Mr. D. R. Andhale, Ld. Advocate for Plaintiffs.

Mr. V. B. Nagargoje, Ld. Advocate for Defendant no. 1 & 2.

Mr. P. M. Satbhai, Ld. Advocate for Defendant no. 3.

Mr. M.V. Munde, Ld. Advocate for Defendant no. 4 & 5.

J U D G M E N T

(Delivered on 16th March, 2026)

The present suit is filed for partition, separate possession,
cancellation of the sale deed, and the sale deed is not binding on the
plaintiffs.

FACTS IN BRIEF OF PLAINTIFF :

02. The subject matter of the suit:

In Gut No. 15, Mouza Selu (Parli)), Tq. Parli Vai. Dist-Beed,
defendant no. 2 has 0 H. 76 R land, defendant no. 3 has 4 acres 2 R

land, defendant no. 4 has 0 H. 81 R land, and plaintiff no. 1 has 2 H. 40 R land. The four boundaries of the property are at east – canal, west – Gut No. 14, south – Gut No. 24 and north – Bondargaon Shiv. These are the plaintiffs' ancestral properties. (Hereinafter referred to as **the suit properties.**)

03. Plaintiffs had been living away from their hometown for education. Therefore, they paid no attention to house affairs. On 12/07/2007, plaintiff no. 1 demanded money for his education from defendant no. 1. However, defendant no. 1 abused plaintiff no. 1. It was also a time to save money for plaintiff no. 2's marriage. Plaintiff no. 1 asked defendant no. 1 to either give money or land in partition to the plaintiffs. Then, defendant no. 1 and 2 refused the partition. Plaintiff no. 1 requested a 7/12 extract from the Talathi. He learned that a bogus transaction had taken place concerning the suit properties. Defendant no. 1 and 2 had taken a loan from defendant no. 3 and 4 against the suit properties.

04. Plaintiffs have a one-third share in the suit properties. Defendant no. 2 was completely addicted to alcohol. He transferred many lands behind the plaintiffs' back. Therefore, the remaining land was transferred in the name of defendant no. 2. In addition to alcohol addiction, defendant no. 1 was also addicted to gambling. Hence, he took ₹45,000 from defendant no. 3 and ₹50,000 from defendant no. 4 as a loan. Defendant no. 1, by exerting pressure on defendant no. 2, obtained an executed nominal sale deed in favour of defendant nos. 3 and 4 on the condition of retransfer. The irrigated and highly fertile

land was transferred through a fraudulent transaction involving the share of the plaintiffs' land to defendant nos. 3 and 4.

05. The nominal sale deeds are executed. The suit properties are in possession of the plaintiffs. Defendants have no concern with the suit properties. Defendant No. 2 executed the sale deed No. 1293/1999 on 26/07/1999 in favour of Defendant No. 3, admeasuring 81 R. Defendant No. 4 executed the sale deed 3053/2013 in favour of Defendant No. 5 of 81 R. land. These sale deeds are nominal, null and void and liable to be cancelled. These sale deeds are not binding on the plaintiffs.

06. Plaintiffs have a one-third share in the suit properties. There was an agreement for the return of the suit properties by defendant no. 3 and 4. The suit properties are in the possession of the plaintiffs and defendants no. 1 and 2. Defendant no. 3 and 4 are denying the return of the property. Plaintiffs suffered irreparable loss; hence, this suit is filed.

FACTS IN BRIEF OF DEFENDANTS NO. 1 & 2 :

07. Defendants No. 1 and 2 admitted the claim of the plaintiffs as it is. Regarding additional facts, defendants No. 1 and 2 contended that Shivaji Shamrao Deshmukh, the grandfather of the plaintiffs, the father of defendant No. 1, and the father-in-law of defendant No. 2, owned 24 acres of land in Gut No. 15. Additionally, he had land in Gut Nos. 62, 63, and 110. For family arrangements, Tuljabai, the mother of defendant No. 1, and his brother Rajeshwar, by way of a consent deed

dated 05/05/1998, had these lands mutated in the names of Tanaji Rajeshwar Deshmukh, Dhanaji Rajeshwar Deshmukh, and defendant No. 2. Again, there was an exchange of lands between Tanaji Rajeshwar Deshmukh and defendant no. 2 regarding the family arrangement.

08. For many years, defendant no. 1 was addicted to alcohol and gambling. Due to his bad habits, to prevent the transfer of land by defendant no. 1, the above land was exchanged among plaintiff no. 1, defendant no. 2, and Tanaji. Plaintiff no. 1 received 2 H. 40 R. of land in Gut No. 15 through mutation in his name, and 6 acres of land were mutated in the name of defendant no. 2.

09. Plaintiffs were out of their hometown for education. They needed money, but defendant no. 1 did not fulfill their need.

10. Defendant no. 1 was addicted to alcohol and gambling; hence, he borrowed money from many people to satisfy his addiction. For the repayment of the loans, he made nominal sale deeds as mortgages in favour of the persons from whom he borrowed.

11. Defendant no. 3 loaned money to defendant no. 1 over time since 2001 to help with his addiction, charging interest on it. Defendant no. 3 stated that ₹45,000 was owed by defendant no. 1. He constantly demanded this amount from defendant no. 1. As a result, defendant no. 1 and 2 executed a nominal sale deed bearing no. 4299/2002 of 81 R. in Gut No. 15. Out of sheer helplessness, defendant no. 2 also executed a sale deed in favour of defendant no. 3.

12. The defendant no. 4 lent money to defendant no. 1 periodically since 2002 to support his addiction, and interest was imposed on this amount. Defendant no. 4 stated that ₹50,000 was owed by defendant no. 1. He repeatedly demanded this amount from defendant no. 1. Consequently, defendant no. 1 and 2 executed a nominal sale deed bearing no. 3356/2003 of 81 R. in Gut No. 15. Due to extreme helplessness, defendant no. 2 also executed a sale deed in favour of defendant no. 4.

13. The suit properties are ancestral of plaintiffs, defendant nos. 1 and 2. Hence, they are entitled to share. It is submitted that a decree be passed in favour of the plaintiffs.

FACTS IN BRIEF OF DEFENDANT NO. 3 :

14. Defendant no. 3 denied the adverse allegation against him. Additionally, he contended that Rajeshwar, the brother, and Tuljabai, the mother of defendant no. 1, by way of a consent deed and mutation entry no. 472, transferred land in Gut No. 15, 62, 63, and 110 at Mauja Selu to Tanaji Rajeshwar Deshmukh, defendant no. 2, Renuka Rajeshwar Deshmukh, and Dhanaji Rajeshwar Deshmukh on 05/05/1998. As per that deed, they became owner and possessor. By way of exchange, land in Gut No. 15, measuring 2 H. 40 R., of Tanaji was given to plaintiff no. 1, and land in Gut No. 62, measuring 3 H. 61 R., of plaintiff no. 1 was given to Tanaji. As per that exchange, they became owner and possessor.

15. Defendant no. 2, as the owner and possessor of the land in Gut No. 15, sold 81 R. of land through sale deed no. 1293/1999 to defendant no. 3, and another 81 R. of land through sale deed no. 4299/2002, for family and agricultural expenses, loan repayment, and education of the plaintiffs. Defendant no. 3 is a bonafide purchaser, owner, and possessor of the land. He is a bonafide purchaser for a consideration amount of ₹60,000 and ₹70,000 paid to defendant no. 2. Since defendant no. 3 is a bonafide purchaser, the plaintiffs have no right to claim partition. The land price has been increased, and in an attempt to seize money from defendant no. 3, the plaintiffs, in collusion with defendant no. 1 and 2, filed this false suit. Therefore, the suit should be dismissed with costs of ₹5,000/-.

FACTS IN BRIEF OF DEFENDANT NO. 4 :

16. Defendant no. 2 was the owner and possessor of 2 H. 38 R. land in Gut No. 15, totalling 14 H. 32 R. out of which defendant no. 2 sold 81 R land by way of sale deed 3356/2003 dated 11/06/2003 to defendant no. 4 for a consideration amount of ₹85,000/-. Through this sale deed, defendant no. 4 became the owner and possessor of the land. His name is recorded in the revenue records.

17. Defendant no. 2 sold the land to cover her family expenses and repay a loan. Defendant no. 1 is a witness to the sale deed and gave consent for the sale. Defendant no. 4 is the owner and possessor of the 81 R. land and has been cultivating it without interruption. Defendant no. 4 is a bona fide purchaser; therefore, the plaintiffs have no right to seek a declaration that the sale deed is bogus. The suit was filed to

harass defendant no. 4. It is prayed that the suit be dismissed with compensatory costs of ₹5,000.

FACTS IN BRIEF OF DEFENDANT NO. 5 :

18. The adverse claim against defendant no. 5 is denied. Additionally, defendant no. 5 stated that defendant no. 1 and his brother Rajeshwar Shivajirao Deshmukh shared joint family property at Mauja Selu, specifically in Gut No. 15, 62, 63, and 110. Rajeshwar managed the family's land business as the Karta, and his name was recorded in the revenue records.

19. Thereafter, Rajeshwar divided the lands of the joint family, and in that division, defendant no. 2 received a half share in Gut No. 15, while the other members of the joint family received land from the joint family properties. In 1998, Rajeshwar and Tuljabai Shivajirao Deshmukh created a consent deed, with the help of which their names were recorded in the revenue records as owner and possessor. The mutation entry remains intact. No one has challenged that mutation entry. Defendant no. 2 was enjoying the land received in her share of area 2 H. 38 R. in Gut No. 15. For family needs, she sold 81 R. of land in Gut No. 15 to defendant no. 4 by registered sale deed no. 3356/2003 dated 11/06/2003. Defendant no. 4 became the owner and possessor of 81 R. of land. After reviewing the documents and upon assurance, defendant no. 5 purchased that land from defendant no. 4 by registered sale deed no. 3053/2013 dated 23/09/2013. He became the owner and possessor, and a bonafide purchaser of 81 R. of land.

20. By a consent deed in 1998, plaintiff no. 1 acquired 3 H. 61 R. land in Gut No. 62. This half share was exchanged with Tanaji Deshmukh for land in Gut No. 15, measuring 2 H. 40 R., in 2001. This fact was suppressed by the plaintiffs in the suit. Defendant no. 2 is the separate owner and possessor of land in Gut No. 15, measuring 2 H. 38 R., and this land is not related to the joint family property. Plaintiffs and defendant no. 1 have no concern or rights regarding the land of defendant no. 2. The plaintiffs have not included their other joint family properties in the suit. They have filed this false suit to obtain economic benefits from defendant no. 4 and 5. It is prayed that the suit be dismissed.

21. My Ld. predecessor framed six issues at Exh.46. I have added issues no.2A to 2E vide order below Exh.1 dated 09/09/2024. The issues are reproduced below, to which I record my findings thereon and reasons thereof;

<u>Sr. No</u>	<u>Issues</u>	<u>Findings</u>
01.	Do plaintiffs prove that they have paid necessary court fees upon suit value ?	...In Affirmative
02.	Do plaintiffs prove that suit properties are the ancestral properties of plaintiffs and defendant no. 1 & 2 ?	...In Negative

2-A.	Do plaintiffs prove that defendant no. 2 executed the sale deed in favour of defendant no. 3 & 4 are without legal necessity ?	...In Negative
2-B.	Do defendant no. 3 and 4 prove that they are the bonafide purchaser for the value without notice of plaintiffs right in the suit property ?	...In Affirmative
2-C.	Whether the sale deed no. 1293/1999 and 3053/2013 are not binding on their share and liable to be cancelled ?	...In Negative
2-D.	Whether the suit is hit by principle of hotch-pot in absence of inclusion of all joint family properties ?	...In Affirmative
2-E.	Whether all the necessary parties added in the suit ?	...In Negative
03.	Does defendant no. 1 prove that defendant no. 2 had transferred the 81 R. land in Gut No. 15 for family necessity ?	...Redundant

04.	Do plaintiffs prove that they are entitled for partition and separate possession of suit properties ? If yes, what are the shares of plaintiffs and defendant no. 1 & 2 ?	...In Negative
05.	Does defendant no. 3 prove that he is entitled for compensatory costs ? If yes, what is the amount ?	...In Negative
06.	What order and decree?	As per final order.

22. In order to substantiate their claim the plaintiffs have examined plaintiff no. 1 Gajanan S/o. Bhavanrao Deshmukh as PW-1 at Exh. 66 and one Trimbak Ganpatrao Dapkar as PW-2 at Exh. 103. In support of their oral evidence, the plaintiff relied on following documentary evidence;

Sr. No.	Description	Exh. No.
01.	Copy of mutation entry no. 1336 dt. 26/09/2013.	72
02.	Copy of 7/12 extract of Survey No. 60	106
03.	Copy of 7/12 extract of Survey No. 03	107

04.	Copy of mutation entry no. 652 dt. 07/11/2001.	113
05.	Copy of mutation entry no. 663 dt. 22/01/2002.	114
06.	Copy of mutation entry no. 693 dt. 25/05/2002.	115
07.	Copy of mutation entry no. 705 dt. 05/10/2002.	116
08.	Copy of mutation entry no. 736 dt. 25/04/2003.	117
09.	Copy of 7/12 extract of Survey No. 15	118
10.	Copy of mutation entry no. 787	119
11.	Copy of mutation entry no. 815	120
12.	Copy of mutation entry no. 843	121
13.	Copy of Exh. 5 in R.C.S. no. 12/2009.	207
14.	Certified copy of sale deed no. 3833/1998 dt. 01/12/1998.	208

15.	Certified copy of sale deed no. 1747/2004 dt. 20/03/2004.	209
16.	Certified copy of sale deed no. 4299/2002 dt. 12/07/2002.	210
17.	Certified copy of sale deed no. 1293/1999 dt. 26/07/1999.	211
18.	Copy of mutation entry no. 504	212
19.	Copy of mutation entry no. 533	213
20.	Copy of mutation entry no. 1198	214
21.	Copy of mutation entry no. 1199	215
22.	Copy of letter of Tahsildar, Parli V. Dt. 17/01/2022.	216
23.	Certified copy of sale deed no. 1293/1999 dt. 26/07/1999.	217
24.	Certified copy of sale deed no. 326/2022 dt. 31/01/2022.	220
25.	Certified copy of 7/12 extract of Gut No. 15	221

26.	Certified copy of Khasra Patrak of Gut No. 15.	222
27.	Copy of mutation entry no. 335	223

Thereafter, by filing pursis at Exh. 110 plaintiffs have closed their evidence.

23. Defendant no. 1 Bhavanrao S/o. Shivajirao Deshmukh has filed his affidavit in lieu of examination-in-chief at Exh. 112 as his witness no. 1. He also relied on the following documentary evidence;

Sr. No.	Description	Exh. No.
01.	Copy of mutation entry no. 857	124
02.	Copy of mutation entry no. 937	125
03.	Copy of mutation entry no. 787	126
04.	Copy of mutation entry no. 652	127
05.	Copy of mutation entry no. 693	128
06.	Copy of mutation entry no. 843	129
07.	Original copy of sale deed no. 2403/2009 dt. 29/07/2009.	205

08.	Copy of mutation entry no. 1058	206
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24. Defendant no. 2 Shailaja W/o. Bhavanrao Deshmukh has filed his affidavit in lieu of examination-in-chief at Exh. 141 at his witness no. 1.

25. Defendant no. 3 Shashikant S/o. Manikrao Deshpande has filed his affidavit in lieu of examination-in-chief at Exh. 150 as his witness no. 1 and one Raghunath Ranba Satpute as witness no. 2 at Exh. 168. He also relied on following documentary evidence;

Sr. No.	Description	Exh. No.
01.	Copy of agreement dt. 20/02/2004	169

Thereafter, by filing pursis at Exh. 170 he has close his evidence.

26. Defendant no. 4 Ashok S/o. Vaijnath Sangle has filed his affidavit in lieu of examination-in-chief at Exh. 171 at his witness no. 1. He also relied on following documentary evidence;

Sr. No.	Description	Exh. No.
01.	7/12 extract.	178

27. Defendant no. 5 Pralhad S/o. Arun Choudhari has filed his affidavit in lieu of examination-in-chief at Exh. 181 as his witness no. 1, one Dattatraya Narayan Gutte as witness no. 2 at Exh. 187 and one Kashinath S/o. Chandrabhan Satpute as witness no. 3 at Exh. 188. He also relied on following documentary evidence;

Sr. No.	Description	Exh. No.
01.	Original copy of sale deed no. 3053/2013 dt. 23/09/2013.	182
02.	Certified copy of 7/12 extract of Gut No. 15	183
03.	Certified copy of mutation entry no. 1336	184
04.	Certified copy of mutation entry no. 646	185
05.	Certified copy of mutation entry no. 472	186

Thereafter, by filing pursis at Exh. 189 defendant no. 4 & 5 have closed their evidence.

:: REASONS ::

ARGUMENT:-

28. Ld. Advocate for the plaintiffs argued that plaintiff No.1 is the son and plaintiff No.2 is the daughter of defendant Nos.1 and 2. The

plaintiffs and defendants Nos.1 and 2 have ancestral property. The plaintiffs were pursuing their education while living outside of Parli Vajinath. Defendant No.1 was in the habit of drinking liquor; later, he also developed an addiction to gambling. Defendant No.1 used to take money from defendant Nos.3 and 4 to satisfy his habits. Only for family arrangements, the property was transferred in the name of defendant no.2. Defendant No.1 mortgaged the suit property to defendants No.3 and 4 by executing nominal sale deeds. Defendants Nos 1 and 2 are willing to repay the loan amount to defendants Nos. 3 and 4, but they are avoiding reconveying the suit property to the plaintiffs and defendants Nos. 1 and 2. The suit property is ancestral property. Therefore, the plaintiffs are entitled to a partition and separate possession, as well as a declaration that the sale deeds are not binding on them. It is prayed to decree the suit.

29. Ld. advocate for the defendants No.1 and 2 admitted the claim of the plaintiffs and requested the court to decree the suit.

30. Ld. advocate for the defendant No.3 argued that the plaintiffs failed to prove that the suit property is ancestral property. Plaintiffs failed to prove that defendant No.1 and 2 mortgaged the suit property by making nominal sale deeds. He further argued that the suit property is the separate property of defendant No.2; for family needs, she transferred the suit property to defendant Nos. 3 and 4. The sale deeds are registered sale deeds. There is no evidence presented by the plaintiffs that defendant no.1 was addicted to liquor and under its influence sold the suit property. There is an admission by defendant

no.1 and 2 that their ancestral property was partitioned and defendant no.2 received the suit property. Defendant no.3 is a bona fide purchaser. The plaintiffs have not included all their ancestral property or the necessary parties to the suit. He provided written notes of argument.

31. He relied on the decision of the **Hon'ble Supreme Court and High Court. In Kenchegowda (Since deceased) By Legal.... V/s. Siddegowda Alias Motegowda {JT1994(4)SC125}**, it is held by the Hon'ble Supreme Court that *a suit for partial partition in the absence of the inclusion of other joint family properties and the impleadment of the other co-sharers was not warranted in law.* In **Smt. Bhagyashree & ors. V/s. Balappa S/o. Bapu Khot & ors. of Hon'ble High Court Karnataka decided on 13th June, 2023 in Regular First Appeal No. 100081 of 2017.** It is held *non-inclusion of joint family property, the suit for partial partition is not maintainable.* In **Govindrao S/o. Gangaramji Ajmire V/s. Dadarao @ Shrawan S/o. Gangaramji Ajmire (D) by Lrs. & others. {2005(1)BCJ27} High Court of Bombay.** It is held that *suit for partital partition of joint family property, in the circumstances not maintainable.* He prayed to dismiss the suit with costs.

32. Ld. advocate for defendant No. 4 and 5 argued that the sale deeds are registered sale deeds. Defendant No. 4 and 5 are bonafide purchasers. Plaintiffs have not included all ancestral property and necessary parties to the suit. Plaintiffs have no right to claim partition of the suit property. He prayed for the dismissal of the suit.

AS TO ISSUE NO. 01 :

33. The plaintiffs filed a suit for partition and a declaration that the sale deeds are not binding on them, and requested that they be cancelled.

34. Defendant no. 3 contended that the plaintiffs have not paid court fees on the sale deed executed in his favour. Defendant no. 4 contended that the plaintiffs wrongly valued the suit.

35. Except for formal denial by defendant no. 3 and 4 in their written statement regarding court fees, there is no specific plea about the incorrect valuation of the suit and the court fees paid by the plaintiffs.

36. Plaintiffs claimed main relief of partition. Their additional relief is a declaration that sale deeds are not binding on them and are liable to be cancelled. The relief sought is partition of the suit properties, with a claimed share of 1/3. The plaintiffs are not parties to the sale deeds. Therefore, merely declaring that the sale deeds are not binding on them is sufficient.

Section 6 (VII) of the Maharashtra Court Fees Act,

(vii) for share in joint property.— In suit for partition and separate possession of a share of joint family property or of joint property, or to enforce a right to a share in any property on the ground that it is joint family property or joint property whether or not the plaintiff is in actual oconstructive possession of the property of which he claims to be a co-

parcener or co-owner—according to the value of the share in respect of which the suit is instituted;

Explanation.— For the purposes of this paragraph, if the property in which a share is claimed consists of or includes any land assessed to land revenue for the purpose of agriculture, the value of such land shall be deemed to be the value as determined under paragraph (v) of this section ;

As per Section 6 (VII) of the Maharashtra Court Fees Act, the plaintiffs paid the court fees. The plaintiffs have drawn the correct valuation of the suit properties and paid appropriate court fees on it. It is the plaintiffs whose valuation of the suit is to be accepted unless the defendant shows otherwise. Since the plaintiffs filed suit for partition and claimed a 1/3rd share and only sought a declaration regarding the sale deeds, they paid the proper court fees. Hence, I answer **issue no. 1 in the affirmative.**

AS TO ISSUE NO. 02 :

37. The plaintiffs contend that the suit properties are ancestral properties of both the plaintiffs and defendants No.1 and 2.

38. The burden is on the plaintiffs to prove the suit properties are ancestral properties. The plaintiffs mentioned in the plaint the suit properties as the land in Gut No. 15, on the name of defendant no. 2 admeasuring 0 H. 76 R, defendant no. 3 admeasuring 4 Acre 2 R land, defendant no. 4 admeasuring 0 H. 81 R land, and plaintiff no. 1 admeasuring 2 H. 40 R land. Plaintiffs submitted four different properties in Gut No. 15 in the names of plaintiff No. 1, defendant No.

2, defendant No. 3, and defendant No. 4. The plaintiffs have not clarified whether the four boundaries refer to all four properties or any one of them. It is not pleaded by the plaintiffs how the ancestral property is recorded in the name of defendant No. 2, how much property is recorded in her name, or when it was recorded.

39. It is contended by defendant no. 3 in his written statement that, according to the consent deed made in 1998 by the brother of defendant no. 1, namely Rajeshwar, and the mother, Tuljabai, the landed properties were given to Tanaji Rajeshwar Deshmukh, defendant no. 2, Renuka Rajeshwar Deshmukh, and Dhanaji Rajeshwar Deshmukh.

40. It is contended by defendant no. 4 in his written statement that the suit properties are not ancestral properties of the plaintiffs and defendant no. 1 and 2. He further contended that defendant no. 2 is the owner and possessor of 2 H. 38 R. land in Gut No. 15. Defendant no. 4 purchased 81 R. land by registered sale deed from defendant no. 2, out of the 2 H. 38 R. land of defendant no. 2.

41. Defendants No. 1 and 2 admitted the plaintiffs' assertion.

42. Defendant no. 5 stated in his written statement that defendant no. 1 and his brother, Rajeshwar Shivajirao Deshmukh, owned joint family properties in Gut No. 15, 62, 63, and 110. Rajeshwarrao was the Karta of the family and managed the land business. Later, he partitioned the joint family properties, resulting in

defendant no. 2 and Tanaji Rajeshwar Deshmukh each receiving an 8 Aana share in Gut No. 15. As a result, defendant no. 2 became the owner and possessor of 2 H. 38 R of land in Gut No. 15.

43. Gajanan (PW-1) admitted during cross-examination conducted by defendant no. 3 that Rajeshwar transferred half share in Gut No. 15 to Tanaji and the plaintiff's mother each, through a consent deed and mutation entry no. 472. In the cross-examination conducted by defendant no. 4, the plaintiff no. 1 responded that he does not know whether, in Gut No. 15, 2 H. 32 R. land was in the name of defendant no. 2.

44. It came in evidence of Trimbak (PW-2) that he knew the plaintiffs and defendants. He is a resident of village Selu, Tq. Parli Vaijnath, Dist. Beed. He saw the suit properties. The ancestral properties of the plaintiffs are in Gut No. 15. In cross-examination, he admitted that the plaintiffs, defendant no. 1, and his brother had ancestral property in Gut No. 15, 62, 63, and 110. In 1998, a partition took place between Rajeshwar and defendant no. 1, wherein defendant no. 2 received an 8 Aana share in Gut No. 15. Plaintiff no. 1 received land in Gut No. 62, and Tanaji received land in Gut No. 15. Later on, both exchanged their land. Both are in possession of their exchanged land.

45. It came in evidence of Bhavan (D-1/W-1) that the plaintiffs are his son and daughter respectively. Shivaji Shamrao Deshmukh was his father, the plaintiffs' grandfather and the father-in-law of defendant no. 2. Shivaji Shamrao Deshmukh had land measuring 24 acres out of

14 H. 32 R in Gut No. 15. He also owned land in Gut Nos. 62, 63, and 110. It further came in his evidence that, for a family arrangement, he, his mother Tuljabai, and brother Rajeshwar, by a consent deed dated 05/05/1998, recorded lands in the names of Tanaji Rajeshwar Deshmukh, Dhanaji Rajeshwar Deshmukh, and defendant no. 2. Additionally, due to his bad habits, land in Gut No. 15 was exchanged, resulting in 2 H. 40 R recorded in the name of plaintiff no. 1, and 6 acres of land in the name of defendant no. 2 in the revenue record.

46. In his cross-examination conducted by defendants no. 4 and 5, he admitted that land in Gut No. 15, 62, 63, and 110 are ancestral properties. His elder brother Rajeshwar was the Karta of the family and was managing the land. He admitted that in 1998, the partition took place between him and his brother Rajeshwar. He further admitted that, as per the partition, defendant no. 2 and Tanaji Rajeshwar Deshmukh each received an 8 Aana share in Gut No. 15. He also admitted that, as per the partition, revenue entries were recorded in the record of rights of the sharer.

47. Shailaja (D-2/W-1), during her cross-examination conducted by defendant no. 4 and 5, admitted that Bhavanrao (defendant no. 1) and Rajeshwar are real brothers. They had joint family properties in Gut No. 15, 62, 63, and 110. The partition took place between them in 1998. She received an 8 Aana share in Gut No. 15. According to the partition, the names in 7/12 extracts were recorded.

48. It was proved from Shashikant (D-3/W-1) that the brother of defendant no. 1 and mother Tuljabai, according to the consent deed dated 05/05/1998, transferred land in Gut Nos. 15, 62, 63, and 110 to Tanaji Rajeshwar Deshmukh, defendant no. 2, and Renuka Rajeshwar Deshmukh, Dhanaji Rajeshwar Deshmukh. Mutation entry no. 472 was made, confirming their ownership and possession.

49. The plaintiffs have not cross-examined this witness on the above contention. Hence, the evidence of Shashikant (D-3/W-1) remains unchallenged.

50. It came in evidence of Pralhad (D-5/W-1) that defendant no. 1 and his brother Rajeshwar Shivajirao Deshmukh had joint family properties in Gut No. 15, 62, 63, and 110. Rajeshwar was the Karta of the family, managing the properties. He partitioned the joint family properties, in which defendant no. 2 and Tanaji Rajeshwar Deshmukh each received an 8 Aana share in Gut No. 15. The mutation entry no. 472 (Exh.186) was made as per the consent deed executed in 1998. According to the partition, they became the owners and possessors of their respective shares. The said mutation entry has not been challenged. defendant no. 2 became the owner and possessor of 2 H. 38 R land in Gut No. 15.

51. The plaintiffs have not cross-examined this witness on the above contention. Hence, the evidence of Pralhad (D-5/W-1) remains unchallenged.

52. Admittedly, defendant no. 1 and his brother Rajeshwar had ancestral property. However, defendants no. 3 to 5 denied in their written statement that the suit properties are ancestral properties. It is contended by defendants no. 3 to 5 that the partition took place between defendant no. 1 and his brother Rajeshwar, and in that partition, defendant no. 2 received 2 H. 38 R land in Gut No. 15, thus becoming the owner and possessor of the suit property. The plaintiffs have not cross-examined the witnesses of defendants no. 3 to 5 on this point, so their evidence remains unchallenged.

53. Defendant No. 1 and No. 2, father and mother of the plaintiffs, admitted in their cross-examination that the partition of ancestral properties took place among their joint family, and defendant No. 2 received an 8 Aana share in Gut No. 15. Plaintiff No. 1 also received agricultural land in the partition.

54. Gajanan (PW-1) admits that Rajeshwar Shivaji Deshmukh is his uncle. Through a consent deed, he transferred an 8 Aana share in Gut No. 15 to defendant no. 2, resulting in the mutation entry in 472.

55. In support of the defendant no. 3 to 5's contention, through cross-examination of PW-1, PW-2, D-1/W-1 and D-2/W-1 defendant no. 3 to 5 brought on record by way of admission that there was ancestral property of the plaintiffs and defendant no. 1 and 2's family. The partition took place among their joint family properties. In this process, defendant no. 2 acquired 2 H. 38 R. of land in Gut No. 15. Plaintiff no. 1 also received a share in Gut No. 62, which was later exchanged for

the share of Tanaji in Gut No. 15. Thus, plaintiff no. 1 has the suit property in Gut No. 15. The mutation entry no. 472 (Exh.186) is on record, which clearly indicates that defendant no. 2 acquired an 8 Aana share in Gut No. 15.

56. Defendant no. 2 is a Hindu woman. The rights of Hindu women of property have to be seen. It is apposite to read Section 14 of The Hindu Succession Act, 1956;

14. Property of a female Hindu to be her absolute property.

(1)Any property possessed by a female Hindu, whether acquired before or after the commencement of this Act, shall be held by her as full owner thereof and not as a limited owner. Explanation.—In this sub-section, “property” includes both movable and immovable property acquired by a female Hindu by inheritance or devise, or at a partition, or in lieu of maintenance or arrears of maintenance, or by gift from any person, whether a relative or not, before, at or after her marriage, or by her own skill or exertion, or by purchase or by prescription, or in any other manner whatsoever, and also any such property held by her as stridhana immediately before the commencement of this Act.(2)Nothing contained in sub-section (1) shall apply to any property acquired by way of gift or under a will or any other instrument or under a decree or order of a civil court or under an award where the terms of the gift, will or other instrument or the decree, order or award prescribe a restricted estate in such property.

57. As per Section 14 of H.S.A., if a Hind woman acquires any property movable or immovable at a partition, it shall be held by her as a full owner thereof and not as a limited owner. In the present suit, it is categorically admitted by defendant nos. 1 and 2, PW-2, that there was a partition and defendant no. 2 acquired the suit property in the joint family property.

58. Having considered this fact, it is crystal clear that defendant no. 2 is the owner and possessor of the suit properties acquired in partition as her separate property. The admission in cross-examination is substantive evidence against the maker. Section 58 of the Evidence Act states that the facts admitted need not be proved. Section 31 of the Evidence Act states that admissions are not conclusive proof but may operate as estoppels. Therefore, the suit property of defendant no. 2 does not remain ancestral property. In the said partition, plaintiff no. 1 also received a share. Therefore, the plaintiffs failed to prove that the suit properties are ancestral properties of the plaintiffs and defendant no. 1 and 2. Hence, I answer **issue no. 2 in the negative.**

AS TO ISSUE NO. 2-A :

59. It came in evidence of Gajanan (PW-1) that his father was addicted to alcohol and gambling. His father borrowed ₹45,000 from defendant no. 3 and ₹50,000 from defendant no. 4. By exerting pressure on defendant no. 2, defendant no. 1 arranged a transfer in favour of defendant no. 3 and 4 at a nominal purchase price on the condition that the land would be returned. However, defendant no. 3 and 4 are avoiding returning the said land.

60. In the cross-examination, he denied that defendant no. 2 sold the suit property to defendant no. 3 for necessary needs. He also denied that defendant no. 1 and 2 paid the plaintiffs' educational expenses.

61. In the cross-examination conducted by defendant no. 4, Gajanan (PW-1) admitted that defendant no. 2 sold 81 R land in Gut No.15 to defendant no. 4 for house expenses and repayment of loan. It is voluntarily stated by the witness that it was mortgage deed. He stated he does not have any document showing defendant no. 2 sold the land to defendant no. 4 on the term of returning it to defendant no. 2 and he does not know about it.

62. It came in evidence of Trimbak (PW-2) that defendant no. 1 and 2 mortgaged land in Gut No. 15 to defendant no. 3 and 4 as a loan with the agreement to return it to defendant no. 1 and 2.

63. In his cross-examination, he admitted that due to a need for money, defendant no. 2 sold 81 R land to defendant no. 4. He acknowledged that his litigation over the land is pending in court. In that litigation, defendant no. 1 gave evidence in his favour.

64. It is the contention of PW-1 that his father was addicted to alcohol and gambling. He took a loan from defendant no. 3 and 4. However, there is no evidence from PW-2 supporting PW-1's claim about the father's addiction. On the contrary, PW-2 stated that defendant no. 1

and 2 mortgaged the land as money lending to defendant no. 3 and 4. PW-2 clearly admitted that defendant no. 2 sold the land to defendant no. 4 due to the need for money. The evidence of PW-1 and PW-2 is not entirely reliable.

65. It came in evidence of Bhavan (D-1/W-1) and Shailaja (D-2/W-1) that the plaintiffs were taking education while residing outside. Bhavan (D-1/W-1) admitted that the plaintiffs were always demanding money from him. He further admitted that he had no license to drink alcohol. Shailaja (D-2/W-1) admitted that in 1998 to 1999, the plaintiffs were taking education while residing outside. She also admitted that the plaintiffs were demanding money from her for education. She denied that she sold land to defendant no. 3 for that purpose.

66. It is contention of plaintiffs they were taking education from living outside. These facts were also admitted to their parents, defendant no. 1 and 2. In cross-examination, PW-1 denied that defendant no. 1 and 2 spent money on their education. However, the plaintiffs have not explained who paid for their education if their parents did not. It is also not the contention of defendant no. 1 and 2 that they did not spend money on the plaintiffs' education. Trimbak (PW-2) admitted that defendant no. 2 sold land due to financial need.

67. Bhavan (D-1/W-1) and Shailaja (D-2/W-1) admitted that the plaintiffs were demanding money for their education. In the registered sale deeds executed by defendant no. 2 in favour of

defendant no. 3 and 4 respectively, it is mentioned that the land was sold for house expenses and repayment of a loan. To rebut this statement, the plaintiffs have not brought forward any credible evidence. The sale deeds are registered documents. A registered sale deed carries a presumption of correctness of its contents. It has more evidentiary value than oral evidence.

68. It is the contention of the plaintiffs that defendant no. 1 was an addicted person and he took a loan from defendant no. 3 and 4. As security, he, under pressure on defendant no. 2, transferred land to defendant no. 3 and 4 based on the terms of return by them. However, there is no probable evidence except the plaintiffs' mere words on record that, due to addiction, defendant no. 1 mortgaged land to defendant no. 3 and 4, and the sale deeds are nothing but nominal sale deeds.

69. Defendant no. 2, being the owner of the suit property as her separate property, and the registered sale deeds executed in favour of defendant no. 3 and 4 are outright sales. After considering the facts and evidence on record, I am of the view that the plaintiffs failed to prove that defendant no. 2 sold the suit property to defendant no. 3 and 4 without legal necessity. Hence, I answer **issue no. 2-A in the negative.**

AS TO ISSUE NO. 2-B :

70. Plaintiffs failed to prove that the suit properties are ancestral properties. It is contended by defendant no. 3 to 5 that defendant no. 2 became the owner and possessor of the suit properties

through a partition in the joint family of the plaintiffs and defendants no. 1 and 2. Defendant no. 3 and 4 purchased the land from defendant no. 2 by a registered sale deed. Cross-examination of defendants no. 1 and 2 revealed that defendant no. 2 acquired the suit properties in the partition. As defendant no. 2, a Hindu woman, acquired property through partition under Section 14 of The Hindu Succession Act, 1956, she became the owner and possessor of the suit properties as her separate property. Therefore, defendants no. 3 and 4 proved that they are *bonafide* purchasers for value without notice of the plaintiffs' rights in the suit property. Therefore, I answer as to **issue no. 2-B in affirmative.**

AS TO ISSUE NO. 2-C :

71. I have answered issue no. 2, 2-A, and 2-B accordingly. The plaintiffs have no rights in the suit properties of defendant no. 2. Therefore, the sale deeds executed by defendant no. 2 in favour of defendant no. 3 and 4, and subsequently by defendant no. 4 in favour of defendant no. 5, are binding on the plaintiffs and are not liable to be cancelled. Hence, I answer **issue no. 2-C in the negative.**

AS TO ISSUE NO. 2-D & 2-E :

72. Gajanan (PW-1) in cross-examination stated he does not know about land in Gut No. 12, 62, 63, 110 in addition to land in gut no.15 of their family. Trimbak (PW-2) clearly admitted that the plaintiffs and defendant no. 1's brother have ancestral property in Gut No.15, 62, 63, 110. Defendant no. 1 and 2 admitted in their written statement, evidence affidavit, and cross-examination that the plaintiffs and

defendant no. 1 and 2 have ancestral property in Gut No. 15, 62, 63, 110. It is not the case of the plaintiffs and defendant no. 1 and 2 that the partition of their joint family property took place.

73. It is only in the case of defendant no. 1 and 2 that, for family arrangements, defendant no. 1, his mother Tuljabai, and brother Rajeshwar recorded their ancestral property in the revenue record in the names of Dhanaji Rajeshwar Deshmukh and Tanaji Rajeshwar Deshmukh, with defendant no. 2 by a consent deed in 1998. If it is the plaintiffs' case that the partition of their ancestral property did not occur, then the plaintiffs should have included all their ancestral properties in the suit and named all necessary co-sharers of the ancestral property as parties. The plaintiffs failed to include the land in Gut No. 62, 63, 110 as their ancestral property and did not bring other co-sharers as necessary parties in the suit. Hence, I answer **issue no. 2-D in the affirmative and 2-E in the negative.**

AS TO ISSUE NO. 03 :

74. There is no dispute between the plaintiffs and defendants that defendant no. 2 sold 81 R. of land in Gut No. 15 to defendant no. 1. It appears that issue no. 3 is improperly framed. Therefore, I consider **issue no. 3 as redundant.**

AS TO ISSUE NO. 04 :

75. The plaintiffs failed to prove that the suit properties are ancestral properties of both the plaintiffs and defendant no. 1 and 2, as

discussed in issue no. 2. Since the suit properties are not ancestral, the plaintiffs have no rights in the properties of defendant no. 2. The plaintiffs also failed to prove that all ancestral properties included in the suit, and they did not include all necessary parties to the suit. The case laws cited by defendant No. 3 are applicable to the present suit. Therefore, the plaintiffs are not entitled to partition and separate possession of the suit properties. Hence, I answer **issue no. 4 in the negative.**

AS TO ISSUE NO. 05 :

76. Defendant no. 3 claimed compensatory costs of ₹5,000/- from the plaintiffs. No evidence has been presented by defendant no. 3 on record to establish that the plaintiffs' claims are false or vexatious. If it is proven that the plaintiffs' claims are false and vexatious, the Court, if it deems fit, may order compensatory costs. However, defendant no. 3 has not provided any substantial evidence to show that the suit is false or vexatious. Therefore, I answer **issue no. 5 in the negative.**

AS TO ISSUE NO. 06 :

77. I have answered issues no. 1 to 5 as above. After considering all the facts and evidence on record, I am of the view that the plaintiffs are not entitled to the relief sought. The suit is liable to be dismissed. Since the suit is not false or vexatious, the costs shall follow the event. In the result, in **answer to issue no. 6, I pass the following order.**

Regular Civil Suit No. 81/2007.
Gajanan & ano. V/s. Bhavanrao & ors.

CNR No: MHBI130017072007.
JUDGMENT (Exh. 236/A)

ORDER

01. The suit is dismissed with costs.
02. Decree be drawn up accordingly.

(Dictated and pronounced in open court.)

Place: Parli Vaijnath.
Date: 25/03/2026.

(Dipak. R. Borde)
Civil Judge (Junior Division),
Parli Vaijnath

:: Certificate of Stenographer ::

“I affirm that the contents of this PDF file are word to word as per original Judgment”

Dictated On : 25/03/2026.

Transcribed On : 25/03/2026.

Checked & Signed On : 25/03/2026.

Date : 25/03/2026.

Place : Parli Vaijnath.

(Sachin S. Gupta)
Stenographer (Grade – 3)
Civil Court (Junior Division) & J.M.F.C.
Parli Vaijnath (MHBI-13)