

R.C.S. No. 14/2019

1 Rita + 1 Vs. Khilendra and ors.

MHGO080003772019 Presented on : 22.04.2019



Registered on : 22.04.2019

Decided on : 01.04.2026

Duration : 06 years, 11 months, 09 days

**IN THE COURT OF CIVIL JUDGE JUNIOR DIVISION,
TIRORA, DISTRICT- GONDIA.**

(Presided over by : Smt. A. T. Bansod)

R.C.S. No. 14/2019

Exhibit No.88.

1	Rita Khilendra Bhagat Age:- 29 Years, Occupation:- Nil.	...Plaintiffs
2	Yash Khilendra Bhagat Age:- 07 Year, Occupation:- Student Both R/o. Dulichand Turkar, Dongargaon, Tah. And Dist-Gondia.	
<u>VERSUS</u>		
1.	Khilendra Namdev Bhagat Age:-34 Year, Occupation:- Service	
2.	Kastura Namdev Bhagat Age:- - Year, Occupation:- Agriculturist	
3.	Imleswari Rajendra Tembhare Age:- 33 Year, Occupation:- Agriculturist	
4.	Chandrakala Namdev Bhagat Age:- 66 Year, Occupation:- Nil, 1 to 4 R/o. At and Post- Arjuni, Tah. Tirora, Dist-Gondia	
5	Gosai Kulpat Bhagat (Died)	

5-A	Wasudeo Gosai Bhagat Age 60 Year	
5-C	Laxmichand Gosai Bhagat Age:-58 Year, 5-A and 5-C R/o. Arjuni, Post-Arjuni, Tah. Tirora, Dist-Gondia	
5-D	Intabai Dhanraj Pardhi Age:- 62 Year, R/o. Chullad Post- Sihora, Tah. Tumsar, Dist-Bhandra.	
5-E	Ashabai Chhagan Thakare Age:- 50 Year, R/o. Nahartola (Sonegaon), Post-Sejgaon, Tah. Tirora, Dist-Gondia.	
5-I	Chiteshwar Sukhdeo Bhagat	
5-J	Tilakraj Sukhdeo Bhagat 5-I and 5-J R/o. Arjuni, Post- Arjuni Tah. Tirora, Dist-Gondia.	
5-K	Hemlata Hetram Patle R/o. Ekodi,Post- Ekodi, Tah. And Dist- Gondia	
6	Ganesh Kulpat Bhagat Age:- 67 Year, Occupation:- Agriculturist	
7	Jiranbai Tukaram Bhagat Age:- 68 Year, Occupation:- Nil	
8	Harkabai Kulpat Bhagat Age:- 70 Year, Occupation:- Nil 6 to 8 R/o. At and Post Arjuni Tah. Tirora, Dist-Gondia	
		...Defendants

Learned Counsels :-

Shri. A. P. Yadao, for plaintiffs.

Ex-parte against Defendant Nos. 1 and 4, 5 to 9

Shri. A. R. Mallewar for defendant Nos. 2 and 3

**SUIT FOR PARTITION, SEPARATE POSSESSION AND PERMANENT
INJUNCTION R/W DOMESTIC VIOLENCE ACT 2005**

JUDGMENT

(Delivered on 01/04/2026)

Plaintiff has filed suit for partition, separate possession and permanent injunction.

2. The case of plaintiffs in brief as under :-

A) The plaintiff No.1 is legally wedded wife of defendant No.1 and defendant No.2 is her mother-in-law and defendant Nos. 3 and 4 are her sisters-in-law. Other defendants are uncle and aunt of defendant No.1. The plaintiff No. 1 has married on 25-05-2010 at Dongargaon and started living with defendant No.1 at his house. Then they went to Raipur. Defendants were demanding dowry of Rs. 2,00,000/- to her. Defendant No.1 was having extra marital affair at Raipur. Defendants used to ill-treat her, abused her for no reasons. The plaintiff No.2 was born on 12/12/2012. After delivery, plaintiffs went to her in-law's house at Arjuni, but defendant Nos. 2 to 4 have ill-treated her. Hence, she filed domestic violence application.

B) The grandfather namely Kulpat Bhagat of defendant No.1 left immovable properties at Arjuni and after his death his properties came to the share of father of defendant No.1 and other heirs of Kulapat Bhagat. After death of father of defendant No.1, ancestral properties at annexure

'B' came in share of defendants. Apart from ancestral properties, defendant No. 1 has purchased Gat No.69/1 area 1.22 H.R. situated at Khairlanji, Ta. Tirora, Dist-Gondia as per annexure 'C'. The defendant No. 1 is intending to sale property at annexure 'C'. The plaintiff No. 2 is entitled to partition of properties at annexure 'B'. Hence, plaintiffs filed this suit.

Annexure B:-

Sr.No.	Gat No.	Area (HR)
1	259	0.08
2	262	0.09
3	264	0.04
4	799	0.70
Total	04 Gat	0.91
	House property bearing house No.977	411.5242 sq.meter

Annexure C:- Gat No.69/1 area 1.22 H.R. situated at Khairlanji, Ta. Tirora, Dist-Gondia.

3. Suit summons served to defendants No.1 to 7, but defendant Nos. 1, 4, 5-A to 5-K, 6 and 7 did not appear, hence suit proceeded ex-parte against them. The defendant No. 1 dies during pendency of the suit. Defendant Nos. 2 and 3 filed their written statement vide Exh. 36. They have denied plaintiffs case in toto. They have denied the marriage between plaintiff No.1 and defendant No.1. They have contended that defendant No.1 was in service at Raipur and he performed love marriage at Raipur and they never visited house of defendant at Arjuni till 2014. In the year 2015, defendant No.1 came to Arjuni and complaining about his wife. Due to threat of life, the defendant No.1 left Raipur and used to

work on daily wages at Nagpur. They have never seen plaintiff No.1. Defendant No.1 suffered from cancer deceased and died on 18/12/2020 at Nagpur. For arrangement of medical expenses, the defendant No.1 sold his agricultural land and nothing is remaining in his name. The defendant No. 2 is old lady having no source of income; therefore, she is residing with her daughter. The house which is in her name is in dilapidated condition. To grab the suit property plaintiff has filed false and bogus suit against them.

4. After going through inter-alia pleading of both parties, I have framed issues below Exh.67 which are reproduced below, I record my findings with reasons stated as under.

Sr.No	ISSUES	FINDINGS
1.	Whether plaintiffs prove that the plaintiff No. 1 is legally wedded wife and plaintiff No.2 is son of defendant No.1 ?	In the Negative.
2.	Whether plaintiffs prove that the suit property mention in annexure B i.e. agricultural properties and house property are ancestral properties of plaintiff No.2 and Defendant Nos. 1, 3 to 8 ?	Redundant.
3.	Whether plaintiffs prove that defendant No.1 was intending to create third party interest of the property mentioned in annexure "C" ?	Redundant.
4.	Whether plaintiffs are entitled for partition of their share in property mentioned in annexure "B" ? If yes, to what extent?	No.
5.	Whether plaintiffs are entitled for separate	No.

	possession of their share from property mentioned in annexure "B" ?	
6.	Whether plaintiffs are entitled for permanent injunction as prayed ?	No.
7.	What order & decree ?	Suit is dismissed.

5. The plaintiff No.1 has examined herself below Exh. 70 and closed her side by passing pursis below Exh.84. The plaintiffs have relied on documents below Exh. 72 to 83. I heard counsel for plaintiffs, who has submitted that, plaintiffs have successfully proved their case as nothing has brought on record to disbelieve the testimony of P.W. No.1. The documents placed on record shows that suit properties are ancestral properties. Though there is no document of marriage on record but the P.W. No. 1 is deposing on oath about relationship, so it be considered. As such prayed to decreed the suit.

6. On the contrary, the defendant Nos. 2 and 3 have filed copy of judgment in Cri.M.App. No. 27/2020 and by choosing not to examine any witnesses, closed their side by passing pursis below Exh. 87. Learned counsel for contesting defendants argued that the plaintiff No.1 has failed to prove that she is legally wedded wife of defendant No.1 and plaintiff No.2 is their son. He has further argued that, marriage is denied by these defendants and the P.W.No.1 do not know about geological tree or about other defendants properly. There is no presumption about marriage that, if any person stating on oath that she is wife can be considered.

7. No original documents about relationship are filed on record. The property at annexure "C" is self-acquired property of the defendant No. 1 and for medical treatment he has sold it. Same allegations were

made in other criminal matter which came to be dismissed by the Court. As plaintiffs have failed to prove their relations with defendant No.1, their prayers cannot be granted by this court. Hence, prayed to dismissed the suit.

AS TO ISSUE NO. 1 :-

8. The P.W. No.1 Rita Bhagat (plaintiff No.1) has reiterated contentions made in plaint. In supports of her contentions, she has relied on certified copy of birth certificate of plaintiff No.2 at Exh. 72, 7/12 extracts and Gaon Namuna 8-A of suit properties below Exh. 73 to 81. She further relied on documents of consolidation of land and P-I at Exh. 82 and 83.

9. The testimony of P.W. No.1 has been seriously challenged by the learned counsel for defendant Nos. 2 and 3 by way of cross-examination during which she has deposed that she has not filed marriage certificate or any certificate issued by Gram-panchayat to show her marriage was performed with defendant No.1. She has admitted that she has filed Cri.Misc.Appl. No. 27/2020 against defendant No.2 which came to be dismissed on 16/09/2025. She has admitted that the house at Arjuni is in the name of defendant No.2 which is dilapidated conditions.

10. During her further cross-examination, she has admitted that defendant No.1 has resided at Raipur till 2014-15 and then went to reside at Nagpur. She has further admitted that the document at Exh. 73 and 74 are of dated 04/02/2019 and she has not placed any document of Gat No. 69/1 after year 2020. She has admitted that the said land at Gat No. 69/1 was purchased by defendant No. 1, but she has denied that defendant No.1 has sold it in the year 2020 for his medical treatment and therefore, she has not filed any new document in respect of said property. There is no document on record which shows that the suit property at

annexure 'C' is in the name of deceased defendant No.1.

11. In further cross-examination, she has stated that she is not aware about daughters of Gosai. It has been brought on record that she has not filed any document to show that she is legal heir of defendant No.1 and she has not filed original birth certificate of plaintiff No.2. Rest of the suggestions denied by her.

12. The document on record of i.e. copies of 7/12 extract and Gaon Namuna 8-A of properties at annexure-B shows that said properties belong to the family of defendants and document at Exh. 73 to 75 shows that land at Gat No. 69/1 area 1.22 H.R. was purchased by defendant No.1 from Fakir Kulpat Bhagat, but plaintiffs have not placed any document on record to show that they are legal heirs of defendant No.1.

13. The defendant Nos. 2 and 3 have specifically denied relationship between plaintiff No. 1 and defendant No.1, in such situation, cogent evidence needs to be placed on record. The defendant Nos. 2 and 3 are relied on judgment passed in Cri.M.A. No. 27/2020 (a domestic violence case) wherein this court has held that the plaintiff No.1 never resided with defendant No. 2 and 3 at Arjuni and there was no domestic violence against her. The judgment of criminal Court is not binding on Civil court still the observations made therein cannot be ignored being based on similar facts between same parties.

14. The plaintiffs have failed to prove that their marriage was perform on 25/05/2010 at Dongargaon. The plaintiffs could have filed any document of Gram Panchayat, Dongargaon to show that her marriage was performed on said date with defendant No.1 or on Gram Panchayat Arjuni that she has resided at Arjuni being wife of defendant No.1. There is absolutely no oral or documentary evidence on record to show that the plaintiff No.1 has resided with the defendant No.1 at any point of time as

a wife at Raipur or at village Arjuni.

15. Moreover, only by filing copy of birth certificate of plaintiff No.2 to show that he is son of defendant No.1 is not sufficient because it is not a certified copy or original copy. It was argued by the Ld. Counsel for plaintiffs that, the P.W. No.1 is stating on oath about marriage and during their marriage there was no compulsion of registration of marriage. In such situation, to prove the marriage of P.W. No.1 with deceased defendant No.1, plaintiffs have not examined any other witness who was present in their marriage ceremony. The plaintiff No.1 has relied on xerox copy of marriage invitation card, so she could have examine any witness to prove marriage.

16. Moreover, she is claiming that she has resided at Raipur with defendant No.1, so she could have also examined any witness who has seen the plaintiff No. 1 and defendant No. 1 living as husband and wife or who believes them as husband and wife. But such witness also not examined by plaintiffs for best reason known to them. Admittedly, there is no documentary proof of marriage but no oral evidence is also adduced in that respect. As there is no evidence in respect of marriage of plaintiff No.1 with defendant No.1 and plaintiff No.2 is son of defendant No.1, I am of the opinion that plaintiffs have failed to prove this issue. Hence, I record my answer to **issue No. 1 in the Negative.**

AS TO ISSUE NOS. 2 AND 3.

17. In view of negative finding in respect of relationship between plaintiffs and defendant No.1, both these issues become redundant.

AS TO ISSUE NOS. 4 to 6.

18. In view of negative finding to issue No. 1, plaintiffs are not entitled for partition and separate possession of their share in property

mentioned in annexure 'B' and permanent injunction in respect of property mentioned at annexure 'C'. Hence, I record my answer to these issues accordingly.

AS TO ISSUE NO.7 :-

19. From above discussion, I proceed to pass following order:-

ORDER

1. Suit is hereby dismissed with cost.
2. Decree be drawn up accordingly.

(Pronounced in open Court)

Place : Tirora.
Date : 01.04.2026

(Smt. A. T. Bansod)
Civil Judge, Jr. Dn., Tirora,
Taluka- Tirora, Dist.- Gondia

CERTIFICATE

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

Name of the Stenographer	: S. M. Marathe, Stenographer Grade-III,
Court	: Smt. A. T. Bansod Judicial Magistrate First Class, Tirora Dist. Gondia.
Judgment delivered on	: 01.04.2026.
Judgment signed by the presiding officer on	: 01.04.2026.
Judgment uploaded on	02.04.2026.