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	Registered on :- 07.10.1996
	Decided on :- 16.03.2026
	Duration :- Y M D
	29 05 09

N THE COURT OF 2nd JOINT CIVIL JUDGE JUNIOR DIVISION,
ICHALKARANJI.
 (Presided Over by D.B. Sathe)

Reg.Civil Suit No.350/1996

Exh. No.449

Raghunath Hariba Chavan

Age: 38, Occupation : Agriculture,

Address: Tilawni,

Hatakanangale Dist. Kolhapur

}

Plaintiff

-Versus-

1. Balu Hariba Chavan

Age:43, Occupation : Service,

2. Smt. Dhondubai Bapu Chavan,

Age-50 Yrs, Occu. Agri and Household,

Both R/o -Tilawni, Tal. Hatkanangale,

Dist. Kolhapur.

3. Aaba Hariba Chavan (through LR's),

A] Suman Aaba Chavan,

Age-65 Yrs, Occu. Household,

R/o – Tilawni, Tal. Hatkanagale, Dist. Kolhapur.

}

Defendants

B] Sanjay Aaba Chavan,

Age-50 Yrs, Occu. Agriculture,
R/o – Tilawni, Tal. Hatkanagale, Dist. Kolhapur.

C] Suman Aaba Chavan,

Age-65 Yrs, Occu. Household,
R/o – Tilawni, Tal. Hatkanagale, Dist. Kolhapur.

D] Minakshi Sambhaji Khot, (through LR's)**D-1] Sambhaji Bhikaji Khot,**

Age-50 Yrs, Occu. Agri,
R/o – Randevivadi, Tal. Kagal, Dist. Kolhapur.

D-2] Vivek Sambhaji Khot,

Age-25 Yrs, Occu. Agri,
R/o – Randevivadi, Tal. Kagal, Dist. Kolhapur.

D-3] Sarita Sambhaji Khot,

Age-27 Yrs, Occu. Household,
R/o – Randevivadi, Tal. Kagal, Dist. Kolhapur.

4. Baban Bapu Chavan,

Age-32 Yrs, Occu. Weaving,
R/o – As above.

5. Sou. Bharti Dattatray Misal,

Age-27 Yrs, Occu. Household,
R/o – Borgaon, Tal. Chikodi, Dist. Begaon.

6. Sou. Shobha Dattatraya Misal,

Age-25 Yrs, Occu. Household,
R/o – Kumbhoj, Tal. Hatkanagale, Dist. Kolhapur.

Defendants

7. Sanjay Aaba Chavan,
Age-25 Yrs, Occu. Agri,
R/o – Tilawani, Tal. Hatkanangale,
Dist. Kolhapur.

8. Rajendra Aaba Chavan,
Age-22 Yrs, Occu. Agri,
R/o – As above.

9. Smt. Aakatai Shankar Wadkar,
Age-58 Yrs, Occu. Household,
R/o – Hatkanagale, Tal. Hatkanangale,
Dist. Kolhapur.

10. Sou. Chandrabai Bhikaji Khot,
Age-55 Yrs, Occu. Household,
R/o – Randevivadi, Tal. Kagal, Dist.Kolhapur.

11. Sundarabai Hariba Chavan,
Age-46 Yrs, Occu. Household,
R/o – Randevivadi, Tal. Kagal, Dist.Kolhapur.

12. Aannu Raghu Chavan,
Age-75 Yrs, Occu. Agriculture,
R/o – Randevivadi, Tal. Kagal, Dist.Kolhapur.

13. Laxman Krushna Chavan (through L.R.'s),

A. Parvati Laxman Chavan,
Age-52 Yrs, Occu. Household,
R/o – Tilwani, Tal. Hatkanagle, Dist. Kolhapur.

B. Bajrang Laxman Chavan,
Age-25 Yrs, Occu. Service,
R/o – Randevivadi, Tal. Kagal, Dist. Kolhapur.

Defendants

**14. Chimaso Aannaso Mulik (through LR's),
A. Vijaymala Chimaso Mulik,**
Age-70 Yrs, Occu. Household,
R/o – Tilwani, Tal. Hatkanagle, Dist.Kolhapur.

B. Dilipsingh Chimaso Mulik,
Age-50 Yrs, Occu. Service,
R/o – As above.

C. Yashwant Chimaso Mulik,
Age-40 Yrs, Occu. Agri,
R/o – As above.

D. Sou. Nalini Sambhaji Ramnave,
Age-45 Yrs, Occu. Household,
R/o – Kalbhor Nagar, Pune.

E. Sanjivani Vishwasrao Shinde,
Age-38 Yrs, Occu. Household,
R/o – Tilawni, Tal. Hatkanangale, Dist. Kolhapur.

F. Smt. Suvarna Surendra Mulik,
Age-52 Yrs, Occu. Household,
R/o – Shahapur, Tal.Hatkanagale, Dist. Kolhapur.

G. Smt. Ulaka @ Manisha Uday Sawant,
Age-Adult, Occu. Household,
R/o – As above.

H. Sou. Vaishali Shital Desai,
Age-Adult, Occu. Household,
R/o – As above.

I. Dipali @ Pramodini Surendra Mulik,
Age-Adult, Occu. Education,

Defendants

R/o – As above.

15. Executive Members/ Chairman,
D.B. Ratanappa Kumbhar Panchaganga
Co-operative Sugar Factory Ltd. Ganganagar,
Ichalkaranji.

16. Madan Ganpati Chavan,
Age-25 Yrs, Occu. Service,
R/o – Tilawni, Tal. Hatkanagale, Dist. Kolhapur.

17. Dadu Rama Chavan (through L.R.'s),

1. Vasant Dadu Chavan,
Age-50 Yrs, Occu. Agri,
R/o – As above.

2. Ravsou Dadu Chavan,
Age-45 Yrs, Occu. Agri,
R/o – As above.

18. Sahdev Rama Chavan,
Age-78 Yrs, Occu. Agri,
R/o – As above.

19. Mahadu Siddha Dhangar,
Age-52 Yrs, Occu. Agri,
R/o – As above.

20. Ramchandra Dattu Chavan,
Age-45 Yrs, Occu. Agri,
R/o – As above.

21. Vitthal Dattu Chavan,
Age-42 Yrs, Occu. Agri,
R/o – As above.

Defendants

22. Balu Bhujinga Chavan,

23. Tammanna Siddha Dhangar,
R/o – As above.

24. Kalpanna Aapasao Tandale,
Age-27 Yrs, Occu. Household,
R/o – As above.

25. Surekha Ganpati Chavan,
Age-25 Yrs, Occu. Household,
R/o – As above.

26. Smt. Anusaya Ganpati Chavan,
Age-50 Yrs, Occu. Household,
R/o – As above.

27. Gunda Govind Chavan (through L.R.'s),

1. Aanna Gunda Chavan,
Age-47 Yrs, Occu. Agri,
R/o – As above.

2. Khandu Gunda Chavan, (abate)
Age-40 Yrs, Occu.
R/o – As above.

3. Pandu Gunda Chavan,
Age-35 Yrs, Occu. Agri,
R/o – As above.

4. Vilas Gunda Chavan,
Age-30 Yrs, Occu. Agri,
R/o – As above.

Defendants

5. Kumar Gunda Chavan,
Age-28 Yrs, Occu. Service,
R/o – As above.

28. Mahadu Rama Chavan (abate)

29. Kamblabai Babu Chavan (abate)

30. Shamu Raghu Chavan (abate)

31. Pundalik Aapu Chavan,
Age-47 Yrs, Occu. Weaving,
R/o – As above.

32. Krushna Ganu Chavan (through L.R.'s),

1. Babu Krushna Chavan,
Age-55 Yrs, Occu. Service,
R/o – As above.

2. Bharti Krushna Chavan,
Age-50 Yrs, Occu. Agri,
R/o – As above.

3. Smt. Krushna Chavan,
Age-48 Yrs, Occu. Agri,
R/o – As above.

**33. Kolhapur District Co-operative Bhuvikas
Bank ltd, Kolhapur.**

34. Pratap Annaso Mulik (Abate)
Age-32 Yrs, Occu. Agri,
R/o – Nipanikar Sarkarwada, Nipani.

Defendants

35. Uttam Ramdas Mehtre,
Age-Adult, Occu. Household,
R/o – As above.

36. Urmila Uttam Mehtre,
Age-Adult, Occu. Household,
R/o – As above.

37. Sadashiv Nagoba Gaikwad,
Age-65, Occu. Agri,
R/o – As above.

38. Yashwant Chimaso Mulik,
Age-30, Occu. Business,
R/o – As above.

39. Siddhu Nema Matale,
Age-32, Occu. Agri,
R/o – As above.

40. Aanna Nema Matale,
Age-30, Occu. Agri,
R/o – As above.

41. Balu Aannappa Chougule,
Age-52, Occu. Agri,
R/o – As above.

42. Dhanpal, Bhupal and Padmanna Jinnapa Kabnure
Age-Adult, Occu. Agri,
R/o – As above.

43. Rama Siddhu Pujari,
Age-48, Occu. Agri,
R/o – As above.

Defendants

44. Pundalik Balu Chavan,
Age-40, Occu. Business,
R/o – As above.

45. Nana Balu Chavan,
Age-33, Occu. Agri,
R/o – As above.

46. Sukumar Balu Chavan,
Age-30, Occu. Agri,
R/o – As above.

47. Radhabai Laxman Powar,
(through L.R.'s)

A] Shrimabai Rajaram Chavan,
Age-68, Occu. Household,
R/o – Bhaireywadi, Kurundwad,
Tal. Shirol, Dist. Kolhapur.

B] Mahadev Laxman Powar,
Age-59, Occu. Agri,
R/o – Dattawad, Tal. Shirol, Dist. Kolhapur.

C] Sangita Sadashiv Powar,
Age-45, Occu. Service,
R/o – Bhaireywadi, Kurundwad,
Tal. Shirol, Dist. Kolhapur.

D] Dhanashree Narayan Yadav,
Age-23, Occu. Household,
R/o – Bhaireywadi, Kurundwad,
Tal. Shirol, Dist. Kolhapur.

E] Bhagyashree Avadhut Adsul,

Defendants

Age-31, Occu. Household,
R/o – Bhaireywadi, Kurundwad,
Tal. Shirol, Dist. Kolhapur.

48. Suman Aabaso Chavan,
Age-Adult, Occu. Household,
R/o – Tilawni, Tal.Hatkanagale,
Dist.Kolhapur.

Defendants.

Claim :- Suit for partition, separate possession and permanent injunction.

Adv. for Plaintiff.	Shri. S. N. Mudgal
Adv. for Defendants No.1, 2 and 4	Shri. S. V. Daribe
Adv. for Defendants No.3, 7 and 8	Shri. D. D. Patil
Adv. for Defendants No.15	Shri. S.V. Rampure.
Adv. for Defendants No.47	Sou. M. G. Pote
Adv. for Defendant No.48	Shri. A. T. Khanvilkar
Defendant No.2, 4, 9, 12, 14, 14-a to 14-i 16, 17(2), 18 to 26, 27 to 31, 32(1), 32(3), 37 to 46	Ex-parte
Defendant No.3 d-1 to 3 and 13-A and 13-B	Ex- parte

J U D G M E N T

(Delivered on 16.03.2026)

This suit is filed for partition, separate possession and permanent injunction against the defendant.

The fact of plaintiff's case in nutshell as follows:

2] The suit property situated at Tilawni, Tal. Hatkanagle, dist. Kolhapur which is specifically mentioned in schedule A along

with tabulate format below.

Schedule A

Sr. No.	Gat Number	Admeasuring H. and R.	Remark
1	237	1.14	Full Gat number
2	242	Well 0.02	Bring one of them 9 paisa
3	267	0.52	Full Group number
4	302	0.02	4 anna share
5	303	House 0.18 P.K. 0.07	4 anna 6 pai share
6	295	Well 0.02	1 anna 3 pai
7	204	2.22	Full text area
8	235	1.32 P.K.0.02	Full Gat Number
9	201	11.23 P.K.00.23	8 Pai purchased unlawfully and 2 H.20 R. were occupied by the owner.
10	236	1.24 P.K.0.01	Full Gat Number

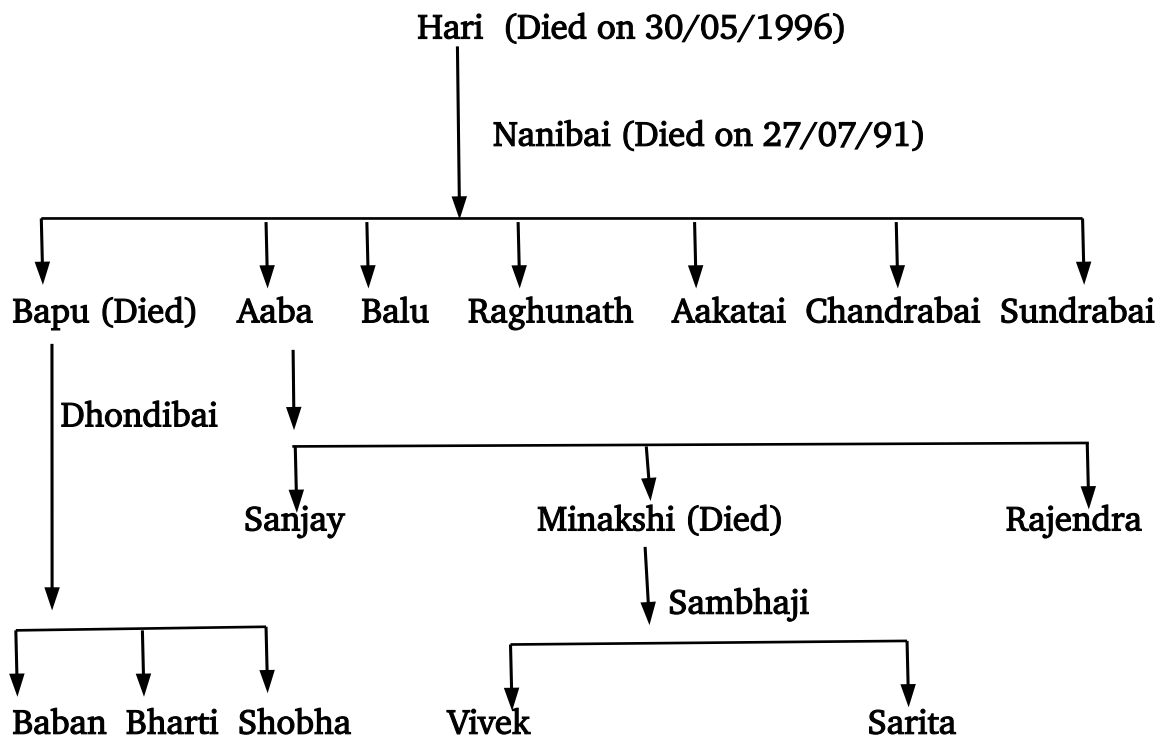
Schedule- B

Sr. No.	Land Number	Grampannchayat property Number	Area in sq.meeter.	Remark
1	66	581 and 133	112.07	Boundaries- East-Land No.65, South- Land No.68 and 82, West- Land No.67, North- Road.

2	64	129, 130, 134	129.09	Boundaries- East- Land No.62 and 63, South and West- Land No.65, North- Road
3	1/1	90, 91	-----	Boundaries- East- plot in possession of plaintiff's family taken from Anna Raghu Chavan, South- road, West- property of Shripati Chavan, North- road.
4	1/1	115	-----	Boundaries- East- property of Dharmarao Mane, South- road, West- Property of Tukaram Kalage, North- Road.
5	1/2	Land purchased for the joint family from Anna Raghu Chavan and house built by the joint family(income not recorded in Panchyat records)	-----	Boundaries- East-House of Balu Chavan, South- raod, West- Property No.90 and 91, North- road.
6	Ichalkaranji New Kabnur, Ichalkaranji included Tal. Hatkanangale, Dist. KolhapurA.No.17,City Number100 3/6			Boundaries- East- Plot No.25, South- Property of Musutunge, West- road, North- Property of Vasant Todkar.

3] The plaintiff and defendants Balu, Bapu, Hariba are real brothers and defendant no. 2 is the wife of the Bapu. Defendants No. 4 to 6 are the children of defendant no. 2. Defendants no.7 and 8 are the children of defendant no.3. Defendants no. 9, 10, 11 are the sisters of the plaintiff and defendants no.1 and 2. Defendant No.48 is wife of defendant No.3.

4] The plaintiff and defendants no. 1 to 11 are a joint family. The suit properties are the properties owned and occupied by the plaintiff and defendants no.1 to 11. The pedigree of the plaintiff and defendants for the reasons given is as follows.



5] It is further averred that Bapu was the eldest son in the joint family of the above plaintiff and defendants. Bapu was weak in health and suffered from asthma, so he was often sick. Therefore, as

the eldest son after Bapu, defendant no.3 was looking after the affairs of the plaintiff and defendant's joint family. Bapu died in the year 1994. Defendants no.2, 4, 5 and 6 are his next legal heirs. The suit properties belongs to the joint family of the plaintiff and defendants and the plaintiff and defendant are enjoying the suit properties by working gettogether. The properties mentioned in serial No. 1 to 6 in Schedule A are the ancestral property of the plaintiff and defendants No.1 to 11 and the suit properties mentioned in serial No.7, 8, 9 in Schedule A are the ancestral properties purchased from the properties of the joint family of the plaintiff and defendants.

6] It is further averred that the agricultural land in Schedule A of the said property Serial No. 9 and Schedule A Serial No.10 has been purchased by the plaintiff and defendants no. 1 to 11 for the joint family and the joint family of the plaintiff and defendants no. 1 to 11 are in unlawful possession and enjoyment of it is being considered as the property of the joint family by all the heirs of the joint family. The properties mentioned in serial No.1 to 3 in Schedule B are ancestral property of the plaintiff and defendants No.1 to 11. The properties mentioned in serial No.4, 5 and 6 in Schedule B are the properties acquired from the joint family property and income of the plaintiff and defendants No.1 to 11. The properties in the said Schedule B are being enjoyed by all the heirs of the joint family. The plaintiff, the defendant's predecessor Hari Ganu Chavan, died on 30/5/1996 at Tilvani due to the wrongdoing of defendant no. 3. At the time of his death, Hari Ganu Chavan told the plaintiff that

defendant no.3 was trying to embezzle the income in the suit properties of serial No.1 and due to which he had fallen ill and due to which Hari Ganu Chavan had filed a suit against defendant no.3, 8, and 15 and Hari Ganu Chavan had asked the plaintiff for partition of the suit properties of the joint family against the defendant No.3 to the plaintiff and defendant no.1 to 11 according to their inheritance rights and had taken an oath from the plaintiff. After the death of Hari Ganu Chavan, In June 1996 the plaintiff was asked to divide the plaintiff's 3/35 share in the joint family's suit property as per law by dividing it in equal shares.

7] It is further averred that at that time, the defendant gave vague answers and avoiding to divide the plaintiff's share in the suit property by equal shares. On the contrary, the plaintiff was asking for the distribution of the suit property by equal shares and was asking for income. On 20th and 21st June, defendants no.3, 7, 8 and the wife of defendant no.3 together tried to obstruct the possession of the suit properties by beating and threatening the plaintiff's wife and defendant no.11. In this regard, a case has also been filed in court vide Criminal Case No.1059/96. On 02/09/96, the wife of defendant No.3 obstructed to the plaintiff watering the sugarcane crop in the suit property and tried to object to the possession of the suit property and threatened to kill the plaintiff if she asked about the income from the suit property. In this, the defendants No.7, 8 are the children of defendant no. 3 and are their accomplices. The plaintiff requested defendant no. 15 not to give the plaintiff's share of the suit property

to defendants no.3, 7, 8. Defendants no.3, 7, 8 and defendant no. 15 are in cahoots. Therefore, the plaintiff is constrained to file the present suit to get the plaintiff's 8/35 share in the suit properties. It is further averred that defendant no.47 is not the daughter of Hariba Chavan and therefore she has not any right in the suit properties. Hariba had children named plaintiff and defendant no.1, 3, 9 to 11 from this wife. Hariba had a first wife at Randivewadi and she had a daughter named Radhabai from Hariba.

8] It is further averred that the properties of defendants nos. 12, 13, 14 and 34 are in unlawful possession of the family of the plaintiff and defendants. The property of defendant no.34 Pratap Annaso Mulik in Schedule A of the suit property has been acquired by the plaintiff and the defendants for part performance as per the agreement made for the same. The property acquired by defendant no. 34 in Schedule A of the suit property has been recently purchased in the name of Suman Abasso Chavan from the joint family property of the suit property. The said purchased property has been purchased from the income derived from the joint family property of the heirs of the plaintiff and the defendants. The plaintiff has 8/35 share in the said property. The sugarcane crop in the suit property has supplied to defendant no.15 and the name of defendant no.16 to 33 and 35 to 46 are recorded on 7/12 extracts of the properties, they have been made parties to this matter. Hence, plaintiff filed this suit.

9] The defendant No.1, defendant No.2 and 4 have admitted

the claim of plaintiff by filing their Written Statement below Exh.40 and 63.

10] Defendants No.3, 7 and 8 have filed their Written Statement at Exh.30. They denied each and every allegations levelled against them. Defendants contended that, defendant No.3 has never been and is not the head of the joint family of the plaintiff and defendants Nos.1 to 11. Defendant No.3 is the father of the plaintiff No.3, Hariba Ganu Chavan, who separated from the plaintiff on 13/01/1969 and has been separated since then. Defendant No.3 was living separately with his wife even before the separation, i.e. from the year 1965 and was living independently and died while living separately. Defendant No.1 has been working in the Air Force since 1972. When defendant No.3 was separated, at that time the plaintiff was studying and was living with his parents. The defendant no.11 was married in the year 1967, but she returned to her mother's house within two months of marriage and did not go to her husband's house again. At that time the defendant no. 3 was saying that the defendant no.11 should live with her husband and not keep her with him. The parents opposed this and therefore the parents and sister of the defendant no. 3 along with Sundarabai separated from the joint family and is carrying on independent business and transactions. At that time, the defendant No. 3 had given 35 R land out of the land listed in Schedule No. 1 in Schedule "A" of the suit property to the defendant No. 3 by Hari Ganu Chavan for the purpose of cultivating sugarcane and year after year, the land of 35 R land out of the said

land, which is bounded by the road on the east, the remaining land in the same group on the south, the land of group no. 236 on the west and the land in the corner of 20 plots out of groups no. 230 and 237 on the north, has been given to the defendant No. 3 by the defendant No. 3's father Hari Ganu Chavan. The said land is in possession of the defendant No.3.

11] Defendant No.15 filed his written statement at Exh.24 stating that suit is not maintainable against him. It is also contended that without notice as required as per provision of Multi State Co-operative Society Act suit is not maintainable. The defendants No.15 is contended that, unnecessarily the plaintiff has made party to the suit. He is no concerned with the disputed suit property. Hence, prayed to delete him from the suit. Lastly, request to obey the order passed by the court.

12] The defendants No.47 has filed his written statement at Exh.118. She contended that, the pedigree described by the plaintiff in his claim is incorrect and incomplete. The plaintiff's father Hari Ganu Chavan died on 30.5.1996. Hari Ganu Chavan had married twice. Hari Ganu Chavan's wife was Sarasabai Hari Chavan's first wife. Nanibai is the second wife. From his wife Sarasabai, he had a daughter Radhabai, i.e. plaintiff no.47. Sarasabai died between 1935 to 1940 when Radhabai was young. After that, when Radhabai was young, Hari Chavan arranged for her to be taken care of. He married Nanibai for the second time. The plaintiff has intentionally concealed

from the court that plaintiff no. 47 is the sister of plaintiff and defendants No. 9, 10, 11 and 1, 3. It is further contended that Radhabai is the daughter of Hari Chavan and is his immediate legal heir. All the suit properties mentioned in the suit have never belonged to the joint family. The plaintiff has mentioned Serial No.1 to 6 in Schedule A in the family property. In it, the plaintiff No.47 has 1/2 share. The said share is Radhabai's legal heir of Hari Chavan and it is recorded in Diary No.2228 that she is the heir. The properties mentioned in serial No.7 to 10 mentioned in Schedule A are the self-acquired properties of the children and wife of the defendant No.3, 7, 8 and 44 i.e. the children and wife of the defendant No.3. Also, the property No.2 mentioned in Schedule B is the property No.64, Grampanchayat Property No.129 given to the defendant No.3 by Hari Ganu Chavan during his lifetime and he has built a house in it and at present it is in a dilapidated condition. The Grampanchayat Property No.130 mentioned in Schedule B has been given to Balu Hariba Chavan i.e. the defendant No.1 by Hari Ganu Chavan on the basis of ownership and Grampanchayat Property No.134 has been given to the plaintiff and it is in his possession. The suit property mentioned in Schedule B, A.No.3, Grampanchayat No. 91, has been built by the defendant No.44 by bringing money from her matrimonial house. Out of the S.No.3 mentioned in Schedule B, the property of Grampanchayat No.91 and S.No.5 belong to the defendant No.3. He has been in possession as the owner since before. Gat No.204 was purchased from Mulik by defendant No. 3 in the year 1982 and Gat No. 235 was purchased in the year 1978. Hence, prayed to dismiss

the suit.

13] The defendant No.48 filed her say at Exh.113. She contended that defendant No.47 Radhabai is the sister of defendant No. 9, 10, 11. The pedigree mentioned in clause 3 of the plaint is incomplete. The plaintiff and the plaintiff's previous heir Hari had a two marriages. Sarasabai was his first wife and Radhabai was the only daughter born from Sarasabai. The plaintiff has concealed this fact and brought before the court an incorrect and incomplete pedigree. The suit properties are not belong to the joint family. The plaintiff and defendant never had and do not have a joint family. At the time of marriage of present defendant and defendant No.3, the defendant No.9 and 11 were living in the mother's house. At present the defendant No.11 also lives in the mother's house. Therefore, from the day of the marriage, according to her hospitable nature, she started harassing the defendant No.48 and she told her husband i.e. defendant No.3, about this and suggested that she remain independent. The defendant No.48 father is wealth and helped her in every way for the happiness of the daughter. The defendant No.48, with the permission of her husband, started living in the house of defendant No.3. Thereafter 6 months the defendant No.48 built the property in the said Schedule "B" as suit property, Grampanchayat No.90. Thereafter, purchased the property of K. G. No. 204 (Schedule "A" No. 7) from Chimata Mulik in 1978 and in 1982 and 1986. The said properties are self acquired properties. The plaintiff has filed this suit with a greedy mind, with the intention of taking advantage of the

death of Hari Ganu Chavan. Hence, prayed to dismiss the suit with costs of Rs.3,000/-.

14] It is further contended that the plaintiff's suit is that the entire area south of the 35 R land mentioned above in Schedule No. 1 of Section 1 Schedule A is 60 R. Defendant No. 3 cleared the land he had purchased himself, dug a borehole himself and the borehole got plenty of water. In the meantime, the relationship between defendant No.3 and defendant No.8 was amicable. At that time, Hari Ganu Chavan, because of old age and disabled he gave the 60 R land to defendant No. 8 in part and said that the water of the well of plaintiff No.3 should be used for land and $\frac{1}{4}$ of the income should be given to defendant No. 3 and the remaining amount should be given to Hari Ganu Chavan. It was decided that six annas share and six annas share of this land should be taken by the defendant no.8 and accordingly, the defendants No.3 and 8 have been cultivating and enjoying the land since the season of 1992-93. The defendant no.8 planted sugarcane in the said 60 R area in November 1994. Said sugarcane registered with the defendant No. 15 and Hari Ganu Chavan gave his consent to the registration of sugarcane. The defendant no. 3 is also in possession of the 35 R area allotted by the father of the above Gat No.237 in the year 1969 and the defendant no.3 has registered a sugarcane plantation agreement in the area of 35 R during the crop season of 1995-96 in the name of defendant no. 3 and in that registration, Hari Ganu Chavan has given his consent and the thumbprint above the consent has been affixed in the name of

defendant no.1.

15] It is further contended that the plaintiff and defendants no. 1 and 3, father of Hari Ganu Chavan, have filed a RCS No.50/96 against the defendants No.3 and 8 in the CJJD court, Ichalkaranji, praying that the land is their sole property and is in joint possession. RCS No.50/96 was also pending in court. In that suit, the plaintiff has possession. The plaintiff in that suit has not stated anywhere whether Hari Ganu Chavan along with the other defendants no.1 to 11 are a joint family. On the contrary, defendants no.3 and 8 have clearly stated how they have possession of the land in group no. 237. Considering that fact, it will be proved beyond doubt that the plaintiff does not have possession in the said group no. 237. Suit property mentioned in para 1 Schedule A serial No. 3 land was in Hariba and before the defendant No.3 separated from Hari, the said land was divided between the husband of the defendant No.2 and the plaintiff and the said land was shared by the plaintiff and the husband of the defendant No. 2 as per 26 R each. After the death of Bapu, the defendant No. 2 and 5 started to enjoy crops in the 26 R. Further, in this land, the defendants No. 2 and 4 and the plaintiff had cultivated sugarcane as per their share and are still doing so. However, considering this fact, it will be proved beyond doubt that the plaintiff and defendants no. 1 to 11 do not have joint possession.

16] The defendant No.3 was separated and after that he was running the business of agriculture and sewing as well as flour mill

for some time from his own income. The land mentioned in para 1 Schedule "A" serial no. 8 of the suit property originally belonged to the Mulik family, but the said land was purchased from Chimasaheb Mulik on 22/03/1978 and accordingly the defendant No. 3 is in possession of the said suit land. The said land was never and is not of the joint family. While the said land originally belonged to the Mulik family, the joint family of both Chimasaheb Mulik and Annaso Mulik had a legal interest in that land. They purchased the land from Laxman Krishna Chavan on 19/06/1978. After that purchase deed, the said land was illegally occupied by the defendant No.3 from the year 1983 onwards. At that time, denying the ownership of Laxman Krishna Chavan Chavan, Plaintiff No.3 was occupying the land and while such occupation was going on, defendant No.3 was occupying the said land illegally for more than 12 years, while the defendant No.3 filed a suit in the court of CJJD, Ichalkaranji in the RCS No. 298/95 seeking declaration of wrongful ownership and it is still going on. On the contrary, defendant No.3 has planted 60 coconut trees in an area of 1 acre under the Government's orchard scheme and has other seasonal crop and take water from the borehole of the land Gat No.235.

17] It is further contended that suit property mentioned in para 1 Schedule A serial No.9 is the ancestral property of Chimasaheb Mulik. After the partition the share of the son of Chimasaheb 47R land had been purchased by defendant No.3 in the name of defendant No.7 and 8. Thereafter, Chimasaheb filed RCS No.207/85

against the defendant No.3 for permanent injunction and same is dismissed by the court. Thereafter, defendant No.3 filed RCS No.285/92 against Surendra Chimasahab Mulik and others and same is pending. The suit property mentioned in Schedule "A", Sr. No.1 is the self acquired property of defendant No.3. The said land was purchased by the defendant no. 3 on 16/12/1982 from defendant No.14. Therefore, considering the fact that the plaintiff or any of the heirs of Hariba have no legal interest in the said property. The defendant No.3 also have right in Gat No.442 and 495 and suit property mentioned in "A" serial No.4, 5 and 8. It is further contended that the land Gat No. 235 was purchased by the defendant No. 3 on 22/03/78 and while he was enjoying that land, he had taken a loan from the Agricultural Development Bank Mumbai, Branch Hatkanangle by pledging the land as a below poverty line case and from that loan he dug a well and installed an electric motor pump on the said well by buying an electric machine of [AG] No.180 and sugarcane was grown on that water in the year 1991-92. The sugarcane was grown by the sugar factory of the defendant No. 15 and the bills of the sugarcane were taken by the defendant No. 3,7,8. Similarly, the plaintiff No. 3,7,8 is the producer member of the said sugar factory. The sugarcane grown from the said land belongs to the plaintiff No.3, 7, 8. Defendant No.3 doing the Chikku's orchard scheme.

18] It is further contended that properties mentioned in para 1 Schedule serial No. 3, property No. 91 is owned by the defendant

No.3 and the said property is adjacent to the north of the said property, 30×14 R.C.C. building has been constructed by the defendant No.3 in the year 1993 and the property is being used by the plaintiffs No.3,7,8. Out of the suit properties, the property of Gram Panchayat Property No. 130 is owned by Balu Hari Chavan and his cowshed and cow dung gas are in that property. Property No. 129 is owned by defendant No.3 and while defendant No. 3 was living in the said house, on 17/10/1986, due to a land dispute, Chimaso Mulik and others vandalized the houses and burnt the goods and material possessions and in this regard R.C.C. No.456/1986 was filed. Property no. 134 is owned and occupied by the plaintiff.

19] It is further contended that suit property mentioned in Schedule 1 and schedule No.5 the property is the personal property of the defendant and it is given to defendant No. 3 from the government. The property of Schedule B Schedule No. 5 has been purchased by defendant No. 3 from his own money from the name of Aannu Raghu Chavan and defendant No. 3 has taken the rightful license from the Gram Panchayat and the construction of RCC is still going on on that land since 1993. On the said plot, a cow dung gas plant and a toilet have been built in the name of defendant No. 7 through the government scheme through the Taluka Panchayat and a water tank and a water connection have been taken in the name of defendant No. 3. It is used by defendant No. 3, 7 and 8. The pedigree given by the plaintiff in his suit is incorrect. Hariba was the first wife of Ganu Chavan of the village of Randeviwadi. From her, Hariba had

given birth to a daughter, Radhabai Laxman Powar. The daughter is alive and she has not been made a party to this case. The plaintiff has reduced the value of the property by half by setting the price of the property mentioned in Section 1, Schedule B of the suit is below the market price. Hence, prayed to dismiss the suit.

20] On 16/10/1996 the court passed ex-pate order against defendant No.2, 4, 9, 12, 14, 16, 17(2), 18 to 26, 27 to 31, 32(1), 32(3) and 37 to 46. On 21/02/2003 the court passed ex-parte order against defendant No.14-a to 14-H, 14-Ch, 14-I. On 26/08/2019 the court passed ex-parte order against defendant No.3-d-1 to 3. On 23/07/2009 the court passed ex parte order against defendant No. 13-A and B.

21] Heard Ld. Advocate for the plaintiff and Ld. Advocate for the defendants.

22] After going through the rival pleadings of the parties this Court framed issues at Exh.81. I have recorded my findings against them for reasons given their below:-

Sr.No.	<u>Issues</u>	<u>Findings.</u>
1.	Whether plaintiff proves that there is joint family consisting himself, defendant No.1 to 11 and that defendant No.3 was manager and Karta of said joint family ?	Affirmative

2.	Whether plaintiff further proves that properties at Sr. No.1 to 6 in schedule A are ancestral properties, and properties at Sr. No.8 and 9 are properties purchased out of joint family funds, out of the income derived from ancestral joint family properties although some of the properties are purchased in the name of defendant No.3 being Manager, all are thus joint family properties ?	Affirmative
3.	Whether plaintiff further proves that property at Sr. No.7 of schedule A i.e. Gat No.204 is the property of joint family, acquired by adverse possession by the family ?	Redundant
4.	Whether plaintiff further proves that properties at Sr. No.1 to 6 as described in schedule B are the properties of joint Hindu family, and purchased out of joint family funds, i.e. to say properties at sr. no.1 to 3 are ancestral properties and properties 4 to 6 are purchased out of joint family funds, as such those are joint family properties ?	Affirmative
5.	Whether it is proved by defendants No.3, 7 and 8 that they are residing separately since 13-01-1969 from the family, and property 35	Negative

	Guntha land out of Sr. no.8 of schedule-A is purchased by them, and as such it is their self acquired property ?	
6.	Whether plaintiff is entitled for partition and separate possession? If so, what is his share ?	Yes, 1/8 share of plaintiff
7.	Whether defendant No.15 is necessary party to the suit? If so, what is effect of misjoinder ?	Negative
8.	Whether suit against defendant No.15 is maintainable, without notice as required as per provisions of Multi State Co-op. Societies ?	Negative
9.	What order and decree ?	As per final order.

REASONS.

23] In order to substantiate their case, the plaintiff examined Raghunath Hariba Chavan (PW.1) at Exh. No.119. The plaintiff also placed reliance upon various documents which are discussed in the appropriate place. The plaintiff has closed his evidence by filing pursis at Exh. 200. The Plaintiff placed reliance upon following documents.

(1) 7/12 extracts of K.G.N. 204, 237, 242, 267, 302, 303, 295, 204, 235, 201, 236 situated at Tilawni, 7/12 extract of C.S.No.1.

(2) Assessment extract of Property No.38, 90, 91, 115, 581, 133,129, 130,134, 209, Assessment extract of C.S.No.1003/6.

(3) Property record book extract of C.S.No.64, 66

- (4) Request letter to Medical Officer, Gramin Hospital, Hatkanangale regarding medical certificate.
- (5) Complaint applications filed before Tahsildar, Hatkanangale.
- (6) Copy of Exh.1 of RCC NO.10059/96
- (7) Voting list of Tilawni in the year 1977, 1980
- (8) Copy of Exh.1 of Spcl. Civil Case No.352/1993
- (9) Copy of SBI letter, copy of letter received by defendant No.1
- (10) Copy of graph of Tilavni.
- (11) Letters of Ichalkaranji Mahila Sahakari Bank.
- (12) Copy of affidavit of Chimaso Mulik filed in RCS No.50/1996.
- (13) Copy of Exh.1 filed in Criminal Case No.148/1996.
- (14) Copy of affidavit filed by Ramchandra Kadam.
- (15) Sugarkane advance bill receipt
- (16) Copy of light bills.
- (17) Copy of Exh.18 filed in RCS No.50/1996.
- (18) Certificate of Ichalkaranji Mahila Sahakari Bank Ltd. Ichalkaranji.
- (19) Death Certificate of Chimaso Mulik
- (20) Copy of Resolution filed in Civil M.A. No.96/1997.
- (21) On 13/11/2025 plaintiff has filed online 7x12 extracts of Mauje Tilawni Gat No.236.
- (22) Pursis to withdraw relief of adverse possession below Exh.446.

The plaintiff relied on the case of **Shrinivas Krishnarao Kango Vs. Narayan Devji Kango & Ors (1954) SCC 544.**

24] On the other hand, the defendant No.3, 7 and 8 have examined Aaba Hariba Chavan (DW.1) at Exh. No.206, Avinash

Jaykumar Kole (DW.2) at Exh.249, Shrikant Aadisha Ketkale (DW.3) at Exh.250, Suhas Dadaso Patil (DW.4) at Exh.251, Jaywant Baburao Jagirdar (DW.5) at Exh.254, Madan Bhupal Chougule (DW.6) at Exh.257, Baburao Dyanu Patil (DW.7) at Exh.267, Bipeen Govind Kamble (DW.8) at Exh.272, Madhusudan Balmukund Shaha (DW.9) at Exh.289. The defendant No.7, 8 and 48 have examined Sarjerao Ishwara Patil at Exh.360, Babaso Shamrao Walake at Exh.367, Shri. Dadaso Aapaso Ligade at Exh.374, Chandrakant Balu Palange at Exh.401. Defendants No.3, 7 and 8 failed to lead further evidence. My ld. Predecessor has passed evidence closed order against the defendant No.3, 7 and 8. The defendant No.4, 7 and 48 filed evidence closed pursis at Exh.403.

25] Defendant No. 7 and 8 relied upon following citations:

- 1] *Amabanna Vs. Ghanteappa (R.F.A. No.334 of 1993) Hon'ble Karnataka High Court.*
- 2] *Pandurang Vs. Smt. Chandrabhaga & Ors. (Second Appeal No.368 of 2014) Hon'ble Bombay High Court (Nagpur bench)*
- 3] *Manohar S/o Tikaramji Lanjewar Vs. Smt. Shantabai wd/o Gadiramji Wadibhasme & Ors. (Second Appeal No.89 of 2024) Hon'ble Bombay High Court (Nagpur bench)*

26] It is admitted fact that Hari Ganu Chavan was the father of plaintiff and Bapu, Aaba, Balu, Raghunath and Hari was having 4 daughter. It is also not disputed that Nanibai Hari Chavan is died on 27/07/1991 and Hari Ganu Chavan was died on 30/05/1996. It is

also not disputed that the mother of plaintiff and defendant is died due to fallen wall on her. They have claimed compensation. The son of Hariba namely Balu was working at Air Force and Bapu is died during the life time of Hariba. The mother of plaintiff and defendant is died in ancestral house property. It is also not disputed that Bapu was the Karta of joint family and he is died in the year 1994. The relationship between parties are not disputed.

27] It is submitted by ld. Advocate for defendant No.3, 7 and 8 that plaintiff has not mentioned four boundaries of the suit properties therefore, suit is not maintainable. As per Order-7, Rule 3 of Civil Procedure Code provides that, where the subject matter of suit is immovable property, the plaint shall, contain a description of property sufficient to identify it, and in a case such a property can be identify by the boundaries or numbers in a record of settlement or survey, the plaint shall specified such a boundaries or numbers. The present suit is filed by plaintiff for partition and perpetual injunction against the defendants. The properties described by the plaintiff in a suit which as specifically mentioned in schedule A and B of the schedule. As per Order-7, Rule 3 of Civil Procedure Code as the requirement of rule itself shows, giving boundaries of the land is not essential if the survey number or plot number which makes the plot identifiable is given and necessarily a suit can not be dismissed merely because the boundaries is not stated though the identification Gat number is given. The plaintiffs have specifically mentioned the Gat number and property number of suit properties in plaint.

Therefore, I inclined to accept the submission of ld. Advocate of the defendant No.3, 7 and 8 that suit properties are not specifically identified.

28] It is submitted by ld. advocate for defendant No.3, 7 and 8 that plaintiff has not implead the legal heirs of Chandrabai Bhikaji Khot who is a daughter of deceased Hari. The plaintiff has also not added as a party to the Radhabai. It is also submitted that Gat No.1/1 Exh.155 which shows that suit property is owned by Government. The plaintiff has not made party to the Collector. It is also submitted that defendant No.12 is dead. The legal heirs of deceased defendant No.12 are not brought on record by the plaintiff. It is also submitted that defendant No.17 Dadu Rama Chavan is dead. Nandu is legal heirs of Dadu. He is also died. The plaintiff have not brought on record the legal heris of Dadu Rama Chavan and Nandu. It is also submitted that legal heirs of defendant No. 18, 19, 22, 23, 27/1, 27/5, 28/1, 30, 41, 43, 45 are not brought on record by the plaintiff therefore the suit of plaintiff is liable to be rejected. To buttress his submission he relied on *Pandurang Vs. Smt. Chandrabhaga & Ors. (Second Appeal No.368 of 2014) Hon'ble Bombay High Court (Nagpur bench)*. It was held by Hon'ble High Court that a suit for partition and separate possession is not maintainable if necessary parties are not impleaded or all the property are not included in the suit. I have gone to the above stated citation. In present suit head of Hariba are brought on record by the plaintiff.

29] In a suit for partition, the heads of all the branches are the necessary parties. In present suit plaintiff has made all his brother and sister as a necessary party. Therefore, head of all branches are the parties in present suit. Therefore, I inclined to accept the submission of Id. Advocate for defendant No.3, 7 and 8 that suit is hit by non joinder of necessary parties.

As to issue No.1, 2 and 4

30] As to issued No.1, 2 and 4 are interlinked with each other therefore, they are discussing simultaneously. P.W. No.1 deposed that Bapu was a Karta of joint family properties. He is died in the year 1994. After the death of Bapu defendant No.3 was the Karta of the joint family properties. It is submitted by Id. Advocate for defendant No.3, 7 and 8 that defendant No.3 is not a Karta of joint family. Bapu was the Karta of the joint family. They are residing separately since 13/01/1968 and during separation Bapu is died. Defendant No.3 is the elder brother of plaintiff and defendants after the death of Bapu. The Karta of Hindu undivided family is generally senior most member of family. The defendant has not deposed or stated that after the death of Bapu who was the Karta of joint family. P.W.No.3 is the next senior member automatically become Karta.

31] P.W.No.1 deposed that suit properties are joint family properties of plaintiff and defendants. It is a presumption of law that A Hindu family is presumed to be joint unless partition is proved by meets and bounds. The burden of proof lies on the person alleging

separation to prove that a partition took place. Actual, physical division of specific properties, rather than just a division of shares, is required to end the joint status. It is settled law that mere separation of status or a vague, unsubstantiated claim of partition is not sufficient. There must be clear indefinite evidence of partition to rebut presumption. Its family possesses nucleus, joint family gathering income. It is assumed that any new property acquired in the name of member is a part of the joint estate, shifting the burden of proof to the person claiming it as a self acquired.

32] It is submitted by ld advocate for plaintiff that they have purchased suit property from income yielding from joint family property. It is also submitted that his father was agriculturist and also running textile business and cattle business. It is admitted fact that the mother of plaintiff and defendants is died in the year 1991. P.W.No.3 admitted that after death of Bapu he is a elder son of his family. P.W.No.3 admitted that deceased Balu was doing business of collecting and selling milk. He also admitted that his father was running cattle business. P.W.No.3 himself admitted that during the life time of his father Gat No.303 is not partitioned by his father. He further admitted that Gat No.236, 242, 367, 302, 303, 285 are the ancestral property. He voluntaries that Gat No.301 is also ancestral property which is purchased by his family to the extent of 24 R from Laxman Shivra Chavan. P.W.No.3 admitted that his mother running 12 needle machine (*12 mag*) and 1 *kand machine*. The plaintiff proved that existence of ancestral properties, source of income yielding

property and other businesses of his father and mother is established. Any subsequent acquisition made by the Karta during the subsistence of a Joint Hindu family is presumed to be joint family property unless the person claiming self-acquisition discharges the burden of proof with cogent evidence.

33] It is submitted by Id. Advocate for defendant No.3 that Gat No.201 and 236 are not in possession of plaintiff. Gat No.201 is owned by Chimabai Aapasaheb Mulik. In the year 1996 the quarrel took place between Chimabai and defendant No.3 in respect of possession. The house of defendant No.3 is burned. He has filed complaint against the others. There is dispute between Aaba Chavan and defendant No.3 in respect of Gat No.201 and 236 in respect of possession. The father of plaintiff and defendants Hari Chavan has filed suit bearing No.50/1996 against the defendant No.3. The Gat No.235 to the extent of 60 R is purchased by the defendant No.3 from Chimabai Aapaso Mulik on 22/03/1978. He digged well, boar well and land become irrigated and he is enjoying and cultivating the same. The father of plaintiff and defendant Hari Chavan had file suit bearing No.50/1996 for injunction against the defendant No.3 and 8. During the pendency of the suit the father of plaintiff and defendants Hari Chavan is dead. The plaintiff was added as a party but suit is dismissed. In that suit they have claimed relief that suit property is belongs to only Hari Gyanu Chavan. RCS No.207/1985 was filed by Chimasaheb Mulik against the defendant No.3 in respect of suit property. The relief claimed by Chimasaheb Mulik is that they are in

possession over the suit property which is dismissed. It is settled law that possession of one co-owner is possession for all. Hence, I answer issue No.1, 2 and 4 in affirmative.

34] It is submitted that the Hari Gyanu Chavan was having first wife at Randivewadi. Radhabai Laxman Powar is a daughter of late Hari Ganu Chavan. She is defendant No.47 at present suit.

As to issue No.3

35] The plaintiff has filed pursis below Exh.446 contending that he has relinquished his claim of adverse possession. Hence, this issue is redundant.

As to issue No.5

36] Under Hindu law, it is a settled principle that a joint family is presumed to be joint in food, worship, and estate, and this presumption continues until contrary is proved. While joint family existence does not mean all properties are joint, properties acquired by a Karta, particularly with an ancestral nucleus (income-yielding property), are presumed joint unless proved to be self-acquired.

37] D.W.No.3 deposed that suit property is orally partitioned on 13-01-1968. Oral partition is permissible as per law and orally partition is legally valid, but the burden of proof is heavily on the person asserting it. It must be corroborated by subsequent action and public documents. The partition must have completely implemented

not merely contemplated. If one party acts as if the partition happened (e.g., takes possession of a part) and others acquiesce, this conduct is strong evidence of the partition's validity. The strongest evidence is that all parties have been enjoying separate, specific portions of the property exclusively since the partition.

38] It is submitted by ld. Advocate for defendant No.3, 7 and 8 that on 13-01-1968 partition taken place between the defendant No.3 and his father. He admitted that there is no any documentary evidence to show that partition taken place between the parties. He himself admitted that partition taken place between himself and his father and plaintiff was minor at the time of partition. He stated that 35 R land was allotted to the defendant No.3 by the partition. But the name of defendant No.3 is not entered in 7x12 extract. He himself admitted that the name of 4 brother and his 4 sisters namely Chadabai Bhimaji Khot, Sundrabai Dagdu Powar, Aakatai Shankar Wadkar, Radhabai Laxman Powar are entered into Gat No.237 as a possessor and owner. His elder sister has demanded partition before the Tahsildar. P.W.No.3 admitted that Gat No.242 is run in the name of his father. He himself admitted that there is no documentary evidence to show that his name is entered in Gat No.242. Gat No.267 the name of Hari Ganu Chavan is entered as a owner and possessor of the suit property. Gat No.302 admeasuring 2R is also entered in the name of Hari Ganu Chavan. There is no changes in revenue record such as separate patta for mutation in the name of individual family members, strongly supported on oral partition. There is no evidence from neighbors, village officials or family relatives who witnessed the

oral partition. There is no formal deed any formal record like diary entry made at the time of oral agreement. The partition must have completely implemented not merely contemplated.

39] It is the case of the defendant No.3 that Gat No.235 and 204 are purchased from his self income. He deposed that Gat No.204 is purchased from Chimabai Aapasoo Musale. Before purchasing Gat No.204 he had entered into agreement with Annasaheb for considered amount of Rs.60,000/- and he paid Rs.15,000/- as earnest money. There is no any document evidence to show that amount is paid by defendant No.3 for purchasing the said land. He deposed that he purchased Gat No.235. He was running Flour Mill, Sewing Machine. There is no any nucleus to show that Gat No.235 and 204 is purchased by defendant No.3 from his separate income. Defendant No.34 Pratap Aannaso Mulik had executed agreement to sale in respect of suit property Gat No.204. Said property is purchased in the name of Suman Aabaso Chavan who is a wife of defendant No.3. There is no any income source of defendant No.48 to purchase suit property of Gat No.204. Defendant No.7 and 8 are a son of defendant No.3. They have purchased Gat No.201 from Chimasaheb. There is no any evidence to show that this property is purchased by defendant No.7 and 8 from their separate income. Property Gat No.235 is purchased in the name of defendant No.3 on 22/03/1978. There is no any evidence to show that the property is purchased from separate income of defendant No.3.

40] It was submitted by ld. Advocate for defendant that on 13/01/1968 partition took place and it was proved by evidence including an admission of plaintiff. Therefore, oral partition was valid and binding. He relied on *Manohar s/o Tikaramji Lanjewar Vs. Smt. Shantabai wd/o Kadiramji Wadibhasme and Ors. (Second Appeal No.89 of 2024) Hon'ble Bombay High Court (Nagpur Bench).* Wherein it was held by Hon'ble High Court that a partition of ancestral property- Oral partition- Oral partition alleged to have taken place in 1975 was proved by evidence, including an admission by one of the plaintiffs- courts below concurrently held that the oral partition was valid and binding- Family arrangement recorded in 2003-04 affirmed as indicative of the finality of the partition. In order to prove oral partition the defendant to prove that a division of joint property was agreed upon, finalized, and acted upon by all parties. It is established through evidence of separate possession, mutation records, revenue entries, and the testimony of family members or independent witnesses present at the time. It is submitted by ld. Advocate for defendants that defendants and plaintiffs are residing separately their ration card, Voting card are mentioned different address. On 18/10/1986 the house of defendant No.3 is set in fire. The police drew spot panchanama which is at Exh.229 which shows that they are residing separately. They are occupied and cultivating separate land it show partition taken place between the parties.

41] During cross examination defendant No.3 admitted that plaintiff was minor at the time of partition. He also admitted that

there is no any documentary evidence to show that on 13/01/1968 partition took place between the parties. He admitted that partition took place between himself and his father. He admitted that plaintiff and other brothers and sisters were not present at the time of partition. He also admitted that his name is not entered in revenue record as per partition. He voluntarily stated that he has filed application before Tashsildar to enter his name on Gat No.237 to the extend of 35R. He admitted that his name is not entered in the diary register. These facts shows that partition not taken place between the legal heirs of Hariba who is died on 30/05/1996. Hariba has 4 sons and 4 daughters. Defendant No.3 admitted that share to his sister was not allotted. He also admitted that his name was not entered into Gat No.242. He admitted that Gat No.267 admeasuring 72 R at Exh.140 is entered in the name of Hari Ganu Chavan and the name of Hari Ganu Chavan also entered in Cultivation Column. He also admitted that Gat No.302 admeasuring 2R entered the name of Hari Ganu Chavan and there is a animal shed. He also admitted that Gat No.303 admeasuring 18 R is standing in the name of Hariba Chavan. Gat No.303 is converted into common road. He admitted that his father has not partitioned the Gat No.302. He himself admitted that Gat No.237, 242, 267, 302, 285 and Gat No.301 are ancestral and joint family properties of plaintiffs and defendants. Gat No.301 admeasuring 24 R was owned by Laxman Ishwar Chavan who is adopted son and this property is transferred into his family before he born. In order to prove separate possession and cultivation defendant No.3, 7 and 8 have examined Shrikant Adinath Ketkale D.W.No.3

below Exh.250. He deposed that he is running borewell business. He bored into the land of Gat No.201 on 06/04/1998. He issued testing report on same day to the son of defendant No.3 namely Sanjay and Rajendra. D.W.No.2 Avinash Jaykumar Kolhe below Exh.249 has been examined by defendants. He deposed that he runs Hardware store name and style as Bharat Steel Corporation at Ichalkaranji. On 24/08/1996 the defendant No.7 has purchased two bags of cement and steel 6mm iron rod having weight of 12.40 Kg from the shop of D.W.No.2. He issued receipt to the defendant No.7. D.W.No.4 Suhas Dadaso Patil below Exh.251. He deposed that he runs Steel business in the name and style as Dhuleshwar Steel and Taishwari Timber Depo. On 02/05/2005 defendant No.3 purchased iron rod having weight of 28.200kg, 6m.m. steel having 60 kg and he issued bill regarding the same. He has not stated where the steel is used by defendant. D.W.No.5 Jayant Baburao Jahangirdar at Exh.254 who is a seller of Summersible Pumb. He deposed that on 10/10/1997 he sold summersible pump to the defendant No.3. This witness does not know how the pump is used by defendant. D.W.No.6 Mothan Bhushan Chougule below Exh.257 who runs workshop. He deposed that he repaired summersible pump which was brought by defendant No.3. He issued the receipt to him. D.W.No.7 Baburao Dyanu Patil at Exh.267 who deposed that he is working at Datta Sahakari Karkhana, Shirol. He issued receipt which is at Exh.268. He admitted that he has not prepared the said receipt.D.W.No.8 Bipin Govind Kamble below Exh.272 who is working at MSEB. He deposed that Aaba Hariba Chavan is his customer. He paid light bill. D.W.No.9 Madhusudan

Balmukud Shaha at Exh.289 who is the seller of iron pipe. The defendant No.3 had purchased iron pipe from his shop. D.W.No.7. Sarjerao Ishwar Patil at Exh.360 who is a clerk of Chhatrapati Rajaram Sahakari Karkhana Ltd.Kasba Bawda. He deposed that his sugarcane bill issued at Exh. 362 to 364. He admitted that he does not know from which Gat number the sugarcane is entered in his sugarcane. D.W.No.10 Babaso Shamrao Walke at Exh.367 who is a clerk of Udaysingh Gaikwad Sahakari Karkhana Athani. He deposed that his sugarcane bill issued at Exh. 368. D.W.No.11 Dadaso Aapasoo Lingade at Exh.374 who is a slip boy of Panchaganga Sahakari Karkhana. He issued Sugarcane bill receipt at Exh.378 to 390. Witness No.12 Chandrakant Balu Palange at Exh.401.He deposed that he knows defendant No.1, 2, 7, 8, 11, 48 and plaintiff. He know Gat No.204. He also deposed that on 30/10/1996 Gat No.204 is purchased by Suman Aabaso Chavan from Prataprao Mulik by registered sale deed. The amount of consideration is paid by Suman. The sale deed is written by Abole and one Kumbhar is witness to sale deed. Suman is a owner and possessor of Gat No.204. Said land is purchased by Sanjay Aaba Chavan and Rajendra Aaba Chavan. Sanjay and Rajendra are in possession over the suit property. He also deposed that defendant No.3 is residing separately. He is adjacent to the defendant No.3. In addition chief he is admitted that he is witness to the sale deed which at Exh.402. There is no any evidence to show source of income of Suman defendant No.48 to purchased land. Therefore, I answered issue No.5 in negative.

As to point No.6:-

42] As I hold that suit properties are not partitioned and suit properties are joint family properties of plaintiff and defendants. They are co-owner of suit properties. P.W.-1 admitted that Hari has four sons and four sister. After the death of Hari suit properties are simultaneously inherited by Bapu, Aaba, Balu, Raghunath, Aakatai, Chandrabai, Sundrabai and Radhabai who are brother and sister of each one of them would be entitled to half share. Therefore, they are entitled to get 1/8 share in suit properties mentioned in Schedule A and Schedule B. Legal heirs of deceased namely Bapu, Aaba will get 1/24 each in suit properties. Therefore, I answer point No.6 in affirmative.

As to point No.7 and 8:-

43] The sugar factory is generally not a necessary party in partition suit between co-owner. A necessary party is one without whom no effective decree can be passed. In a partition suit focus is on dividing the property among the co-owner. In present suit defendant No.15 is Sugarcane factory. Under the Multi State Co-operative Society Act, 2005 a 90 days written notice to central registrar is required before initiating a suit regarding the societies, management or business. In present suit plaintiff has not claimed any relief against the defendant No.15. Defendant No.15 is the only custodian of sugarcane bill supplied to him by the parties. Therefore, notice is not a required. Suit is maintainable against the defendant No.15. Hence, I answered point No.7 and 8 in affirmative.

44] The plaintiff is seeking injunction against the defendant No.3, 7 and 8 for restraining them for causing obstruction over the suit properties. It is settled law that a co-owner who is not in possession on any part of the property is not entitled to seek an injunction against another co-owner who has been in exclusive possession of the common property unless any act of the person in possession of the property to ouster. Prejudicial or adverse to the interest of co-owner out of possession. Mere making of construction or improvement of, in the common property, does not amount to ouster. If, by the act of the co-owner in possession, the value or utility of the property is diminished, then a co-owner out of possession can certainly seek an injunction to prevent the diminution of the value and utility of the property is diminished, then a co-owner out of possession can certainly seek an injunction to prevent the diminution of value and utility of the property. If the acts of the co-owner in possession are detrimental to the interest of other co-owners, a co-owner out of possession can seek an injunction to prevent such act, which is detrimental to his interest. In all other cases, the remedy of the co-owner out of possession of the property is to seek partition, but not an injunction restraining the co-owner in possession from doing any act in exercise of his right to every inch of it which he is doing as co-owner. Plaintiff is also claiming injunction against defendant No.15 restraining him not to distribute sugar cane bill supplied to him on Gat No.237. Plaintiff is entitled to the share in Sugar cane bill. Therefore, it is necessary to direct defendant No.15 not to distribute the sugar cane bill to defendant No.3, 7 and 8. As I hold that plaintiff

and defendants are equal share in suit properties therefore, they are entitled to equal share in Sugar Cane bill.

As to point No.9 :-

45] Hence, I proceed to issue No.9 accordingly and I proceed to pass the following order-

ORDER

1. It is hereby declared that the plaintiff and defendant Bapu, Aaba, Balu, Akkatai, Chandrabai, Sunandabai and Radhabai have 1/8 share each in the suit properties.
2. The partition of the suit land mentioned in Schedule A be effected equitably by the Collector, or any Gazetted subordinate of the Collector deputed by him in this behalf in accordance with the above declaration of shares in conformity with the law for the time being in force relating to partition, or separate possession of shares of the said land and the plaintiff be delivered possession of the land of their share.
3. The decree be sent to the Collector for compliance of the directions given in clause 2 above vide Section 54 of the Code of Civil Procedure.
4. The suit property mentioned in Schedule B i.e. house properties be partitioned equitably in accordance with the above declaration of

shares by appointing a Court Commissioner and the plaintiff be put in separate possession of his share therein. Preliminary decree to that effect be drawn up accordingly.

5. It is directed to defendant No.15 Ratnappa Kumbhar Panchaganga Co-operative Sugar Factory, Ichalkaranji that to distribute equal amount of Sugar Cane among the legal heirs of Hari Ganu Chavan.

6. Separate preliminary inquiry be conducted as per order 20, Rule-12 of The Code of Civil Procedure.

7. The defendants do pay costs of the suit to the plaintiff and shall bear their own.

(Dictated and pronounced in the open court.)

Date :16 /03/2026
Place : Ichalkaranji.

(D.B.Sathe)
2nd Jt. Civil Judge J. D.,
Ichalkaranji.

