

MHKO070021462025

**ORDER BELOW EXH.40 IN SPECIAL CIVIL****SUIT NO.91/2025.**

Shubhangi R. Shinde

Vs.

Sulochana S. Gadkari and others.

The plaintiff has filed the present application to permit her to send the sugarcane crop cultivated in 95.33 Are of land situated on the western side of Gat No. 1037, of Village Danoli, Taluka Shirol, District Kolhapur, for crushing at a sugar factory. The defendants have filed their say (Exh.42) and objected the application.

2. Heard both sides. Perused the record. On perusal of the same, it appears that the plaintiff has filed the present suit for specific performance of the agreement to sale dated 30.08.2023 allegedly executed by the defendant Nos.1 to 4 in her favour. The plaintiff in the present application has alleged that in January, 2025 she alongwith Vaibhav Sunil Shinde have purchased 1/3<sup>rd</sup> share of defendant No.4 ad-measuring 95.33 Are out of Gat No.1037 which is situated at western side in the said gat number. She has further alleged that they have cultivated sugarcane crop in the said property. She has further alleged that due to the status quo order passed on application (Exh.17) she could not send the alleged sugarcane crop for crushing at sugar factory. Now, it is necessary to send the same for crushing to sugarcane factory. Therefore, she has prayed to send the said sugarcane crop for crushing on her name as well as on the name of Vaibhav Sunil Shinde.

3. On the contrary, defendant Nos. 1 to 3 have contended that defendant No. 4 had no separate possession in Gat No. 1037. Therefore, the plaintiff is not in possession of the property described in

the present application. They have further contended that the said property is not the subject matter of the present suit and that the plaintiff has not instituted the suit in respect of the said property. Hence, the plaintiff cannot seek any relief concerning the said property in the present proceedings. On these grounds, the defendants have prayed for rejection of the application.

4. On perusal of the record, it appears that the plaintiff has filed the present suit in respect of 95.34 Are land out of Gat No. 1037, which was allegedly agreed to be sold by defendant Nos. 1 to 3 to the plaintiff. By way of the present application, the plaintiff has sought relief in respect of 95.33 Are land out of Gat No. 1037, which is sold by defendant No. 4 to the plaintiff. Admittedly, the land sold by defendant No. 4 is not the subject matter of the present suit. The present suit has been filed only in respect of 95.34 Ares of land out of Gat No. 1037 owned by defendant Nos. 1 to 3. Furthermore, it is not the contention of the plaintiff that she is in possession of the suit property. Thus, it is evident that the plaintiff has sought relief in respect of a property which is not the subject matter of the present suit. Therefore, the relief claimed in the present application cannot be granted.

5. In the present application, the plaintiff has alleged that the 95.33 Ares of land described therein is jointly owned by her and Vaibhav Sunil Shinde. Admittedly, Vaibhav Sunil Shinde is not a party to the present suit. Thus, the plaintiff cannot seek any relief on his behalf Vaibhav Sunil Shinde or in respect of his share of the property. Consequently, the plaintiff is not entitled to the relief as prayed for.

6. The plaintiff has alleged in the present application that, due to the order passed by this Court on application (Exh. 17), she has

maintained the status quo with respect to the suit property. In order to sent the sugarcane for crushing permission of the court is necessary. However, on perusal of the order passed on application (Exh. 17), it is evident that the parties are directed to maintain status quo only in respect of the alienation of the suit property and not for any other purpose. Moreover, the said order pertains to the suit property and not to the property described in the present application filed by the plaintiff. Therefore, there is no question of granting the relief as prayed for by the plaintiff. Consequently, the present application is liable to be rejected.

**ORDER**

The application (Exh.40) is rejected.

Jaysingpur.  
Date: 13.02.2026.

**( P. A. Patil )**  
Jt. Civil Judge Senior Division,  
Jaysingpur.