


MHLA050001622019 	Presented on	:	15/04/2019.
	Registered on	:	16/04/2019.
	Decided on	:	06/05/2026.
	Duration	:	07Y:00M:20D

IN THE COURT OF CIVIL JUDGE SENIOR DIVISION
AHMEDPUR, AT AHMEDPUR

(Presided over by S.N.Sarde)

:: Regular Civil Suit No.15/2019 ::

Exh.106.

Ram s/o. Rachappa Hengane, }
Age: 70 Years, Occu.: Pensioner, }
R/o.Proposed Rajsarathi Co-operative }
Housing Society Ltd, Ahmedpur, }
Tq.Ahmedpur, Dist.Latur. }

...Plaintiff.

:: VERSUS ::

1. **Maharashtra State,** }
Through Collector, Latur, }
Collector Office, Latur, }
Tq. & Dist. Latur. }
2. **Secretary,** }
Ministry of Road Transport and }
Highway, Union of India, Transport }
Bhavan, Parliament Street, }
New Delhi. }
3. **Land Acquisition Officer,** }
Sub-Divisional Office, Ahmedpur, }
Tq. Ahmedpur, Dist. Latur. }
4. **Vinayak Bapurao Shetkar,** }
Age: 69 Years, Occu.: Chief Promoter, }
Proposed Rajsarathi Co-operative }

C.J.S.D., Ahmedpur.

Housing Society Ltd, Ahmedpur, }
Tq.Ahmedpur, Dist.Latur. }
R/o. Saraswati Colony, Thodga Road, }
Ahmedpur, Tq. Ahmedpur, Dist. Latur}

5. **Sow. Kamal w/o. Vinayak Shetkar,** }
Age: 60 Years, Occu.: House Hold, }
R/o. Saraswati Colony, Thodga Road, }
Ahmedpur, Tq. Ahmedpur, Dist. Latur}**Defendants.**

Claim :- Suit for declaration and perpetual injunction.

Advocates : Shri. S. B. Murkute, for the plaintiff.

: Shri. M. K. Patil for the defendant No.1 and 3.

: Shri. V. S. Shelke for the defendant No.4 and 5.

: Ex-parte against defendant No.2.

:: JUDGMENT ::
{ Delivered on : 06th May, 2026 }

The suit is filed for declaration and perpetual injunction.

Facts in brief as follow :

02. The plaintiff is member of the proposed Rajsarathi Co-operative Housing Society Ltd., Ahmedpur. Defendant No.4 is the Chief Promoter of the proposed co-operative society. He collected amount from the members of the proposed co-operative housing society and purchased Survey No.121/1/3 area 2 H 43 R assessed @ Rs.2.55/-. The amount of purchase of the land was paid by 100 members of proposed co-operative housing society in common. Mutation entry

C.J.S.D., Ahmedpur.

No.1273 was sanctioned according to the sale deed. In order to get non agriculture permission, defendant No.4 prepared a lay out showing 103 plots in it. Total area of the land was shown to the extent of 24,282 square meters. Area of the plots was shown 15,623 square meters and area of the open land was shown to the extent 3,559 square meters. Plot No.31 (area 200 square meters) was kept reserved for Dr. Gunale. Plot No.56 (area 180 square meters) was kept for society office and plot No.57 (area 180 square meters) was kept for dispensary of the society. Thereafter, the plots were allotted to the members in a function. Accordingly, plot No.19 was given to the plaintiff.

03. Defendant No.4, behind the back of the members of proposed society, prepared plot No.37/a, 37/b, 44/a, 104, 105, 106, 106/a, 106/b and 106/c. These plots are illegal. He sold those plots to some persons and obtained the consideration amount for himself. He purchased plot No.93 area 48 R out of said consideration amount at village Gugdal. Therefore, all the members of the proposed society have common interest in Gut No.93 at village Gugdal. Some land out of Gat No.93 was acquired by the state for National Highway No.361 and the compensation amount was awarded. The members of the society have common interest in that amount.

04. When the plaintiff got knowledge about compensation

amount, he raised objection with defendant No.3 contending that, the amount be not disbursed to defendant No.4. Defendant No.3 did not bother and did not pay heed towards the request of the plaintiff. Defendant No.4 also denied the demand of the plaintiff regarding compensation and common ownership over Gat No.93 at village Gugdal. So, the cause of action arose to file the suit. Therefore, it is prayed that, defendant No.1 to 3 may be restrained permanently from disbursing the amount of compensation to defendant No.5, and, defendant No.4 and 5 may be permanently restrained from interfering with possession of the plaintiff and members of the proposed co-operative housing society in the suit property. It is further prayed that, declaratory decree may be passed regarding ownership of the suit property in favour of the plaintiff and the members of the society.

05. Defendant No.1 and 3 filed their written statement below Exh.27 and denied contents in para No.3, 4 and 5. They have admitted that some portion of the suit property is acquired for construction of the National Highway. They have denied that, the plaintiff raised any objection with defendant No.3 regarding possession. They further have contended that, the suit is without cause of action against them. Hence, it may be dismissed.

06. Defendant No.4 and 5 submitted their written statement below Exh.31 and denied contents in the plaint.

According to defendant No.4, he purchased Survey No.121/1/3 out of his own funds. The plaintiff has encroached upon certain portion upon it. No plot is sold illegally to anyone. The registration of the proposed co-operative housing society was rejected by the Registrar of the Co-operative Societies. The plaintiff is not concerned with the compensation amount. There is no ownership of any of the members upon the property purchased by the defendant at village Gugdal. There is no cause of action to the suit.

07. Defendant No.5 has source of income through the rent amount. Defendant No.5 is the sole owner of the suit property. So, the suit may be dismissed.

08. The suit is proceeded ex-parte against defendant No.2.

09. The issues are framed below **Exh.50**. The issues are reproduced along-with my findings thereon as under-

<u>Sr.No.</u>	<u>ISSUES</u>	<u>FINDINGS</u>
1.	Whether the plaintiff proves that, the suit property bearing Gat No.93 area 48 R is commonly owned by the members of the proposed Rajsarathi Co-operative Housing Society ?	In the negative.
2.	Whether the plaintiff proves that, the amount of compensation is of the members of the proposed Rajsarathi Co-operative Housing Society?	In the negative.

3.	Whether the plaintiff proves that, defendant No.5 is not entitled to receive the compensation amount ?	In the negative.
4.	Whether the plaintiff is entitled to declare ownership of the suit property ?	No.
5.	Whether the plaintiff is entitled for the relief of perpetual injunction against defendants ?	No.
6.	What Order and decree ?As per final order.

10. The plaintiff has led following evidence in the form of documents and oral testimony of witnesses.

<u>Sr.No</u>	<u>Documents</u>	<u>Exh.</u>
1	7/12 extract of the suit property Gat No.93 of village Gugdal	7
2.	Deposition of Vinayak Shetkar in Spl.C.S. No.01/2012	8
3.	Deposition of the plaintiff	51
4.	Deposition of Mohanrao (PW-2)	78
5.	Certificate of Rajsarathi Sahakari Grahnirman Sanstha Maryadit Ahmedpur issued to Mohan Dange (PW-2)	84
6.	Sale deed of the suit property	106
7.	Award of the suit property	85
8.	Certified copy of Exh.399 in Spl.C.S. No.1/2012	99/1

9.	Certified copy of Exh.401 in Spl.C.S. No.1/2012	99/2
10.	Judgment in Spl.C.S. No.1/2012	104
11.	Say of the plaintiff in L.A.R. No.05/2020	105

11. The defendants did not lead oral or documentary evidence.

Arguments advanced on behalf of the plaintiff.

12. Ld. Advocate Shri. S.B. Murkute for the plaintiff submitted that, the defendant Nos.4 and 5 have purchased the suit property from the illegal income earned by them by selling the illegal plots of the Rajsarathi Co-operative Housing Society. It was a benami transaction in favour of defendant No.5. There is no bar of jurisdiction under the National Highways Act, 1956. All the share holders of co-operative society have equal rights in the compensation amount. There is no bar of limitation. Civil rights of the plaintiff are hampered by defendant No.4 and 5. Hence, the suit is maintainable. He further submitted that, the oral testimony of the witnesses is sufficient to prove the illegal activities of defendant No.4 and 5. Defendants did not lead their evidence. So, they admit the claim. Hence, the suit may be decreed.

Arguments advanced on behalf of the defendant.

13. Ld. Advocate Shri. V.S. Shelke submitted that, there are
C.J.S.D., Ahmedpur.

multiple prayers. The main prayer touches the business of highway authority. There is no document showing ownership of the plaintiff and share holders of the co-operative society over the suit property. The plaintiff has no right to file the suit. The Co-operative Housing Society was denied registration and is not in existence. As per National Highways Act, 1956, the suit is barred. Hence, it is prayed that, the suit may be dismissed.

REASONS

AS TO ISSUE NO.1 :-

14. Issue No.1 is related with the ownership of the suit property with the members of Rajsarathi Co-operative Housing Society. Accordingly, the Plaintiff Ram (PW-1) has deposed below Exh.51 and submitted that, defendant No.4 was the Chief Promoter of the Rajsarathi Co-operative Housing Society and was the President of the Maharashtra State Government Employees Federation till the year 2013. He collected share capital from various people and purchased Survey No.121/1/3 of village Ahmedpur bearing 2 H 43 R by virtue of sale deed bearing No.1824/1989. According to him, all the expenses of the sale deed and the consideration amount was paid by all the members in common.

15. So, according to him, the sale deed was executed for and on behalf of all the members of the Rajsarathi Co-operative Housing Society. That sale deed is not on record to C.J.S.D., Ahmedpur.

peruse the intention of the sale deed, its executant, description of the suit property etc. In the cross-examination also it is admitted by Ram (PW-1) that there is no registration of Rajsarathi Co-operative Housing Society and its registration was denied by the concerned officer.

16. It is the say of Ram (PW-1) that defendant no.4 illegally created some extra plots in the property purchased for the society and sold them to some people and earned the money out of the sale proceeds. The plaintiff has not filed on record documentary evidence regarding the sanctioned plan of the Rajsarathi Co-operative Housing Society to believe that sanctioned plots were of specific number and some extra plots were created in it. The plaintiff also has not produced on record the sale deeds of the alleged plots sold by defendant No.1, which were illegally created by him in the sanctioned lay out of the property purchased for the society. If those were registered sale deeds, then being public documents they are available in the record of the State. Yet, plaintiff has not submitted them on record.

17. It is the further case of the plaintiff that, the sale proceeds of the illegal plots was utilized by defendant No.4 to purchase the suit property. The sale deed of the suit property Exh.106 shows that, the property is purchased by defendant No.5 from Chadrabhaga Shrirame. The oral evidence of the Ram (PW-1) shows that, she has purchased the suit property

and it is her personal property. After purchasing the suit property, its effect was given in the revenue record. As per section 54 of the Transfer of Property Act, 1882, the defendant No.5 is the owner of the suit property. Legally the suit property is transferred in her name. So, she is the absolute owner of the suit property and the fact is admitted by the plaintiff.

18. Mohanrao (PW-2) is having no knowledge about the income of defendant No.5. He also has admitted that, he has no documentary evidence to show that, he has any evidence to show possession over the suit property along-with the co-sharers of the society. So, as such there is no evidence to show the ownership and possession of the plaintiff and the members of the society over the suit property. They are having possession of their respective plots in the society, which is admittedly not registered. Hence, issue No.1 is answered in the negative.

AS TO ISSUE NO.2:-

19. According to the plaintiff, the amount utilized by defendant No.4 to purchase the suit property belongs to him as well as other members of the Rajsarathi Co-operative Housing Society. The plaintiff has contended that, defendant No.4 created plot Nos.37A, 37B, 44A, 104, 105, 106, 106A, 106B, 106C in the sanctioned lay out and sold them. He obtained the consideration amount and utilized it to purchase

the suit property. He further has stated that, in order to save himself from the clutches of the society he purchased the suit property in the name of defendant No.4. So, it is a Benami transaction.

20. Basically, the plaintiff has not submitted on record the sanctioned lay out of the property purchased to identify location of Rajsarathi Co-operative Housing Society. In absence of such sanctioned lay out plan it is not brought on record that, some plots were in existence and the defendant created extra plots in it. It is further necessary to bring on record that, the amount was given by defendant No.4 to defendant No.5 or to the seller of the suit property by name Chadrabhagabai Shrirame. That such documents is not brought on record. Chadrabhagabai Shrirame is not examined by the plaintiff to tell from whom she received the amount of consideration. During the cross-examination of the plaintiff, he has admitted that, defendant No.5 is the sole owner of the suit property. The consideration amount of the sale deed (Exh.106) is given by defendant no.5 and as such there is no evidence that, she has earned the amount from the sale of the plots in Rajsarathi Co-operative Housing Society. So, there is no document showing that, the amount of Rajsarathi Co-operative Housing Society was utilized by defendant No.4 and 5 to purchase the suit property. The deposition of defendant no. 4 in the earlier suit discloses that he was

running short of money while in service. But, the suit property is not purchased by defendant no. 4 , but by defendant no. 5. She had sufficient income to purchase it. Hence, issue No.2 is answered in the negative.

AS TO ISSUE NO.3:-

21. The plaintiff has admitted that, the compensation amount of the suit property is awarded to defendant No.5 as the land was acquired from her possession. He has not proved any document to show that, he raised objection for the disbursement of the amount to defendant No.5. Defendant No.5 is exclusive owner of the suit property. The ownership is received by her through the proper sale deed. After doing all the formalities the state has acquired portion of the suit property from her possession and awarded compensation to her. So, she is entitled for the compensation. The plaintiff has failed to prove his entitlement to the compensation. Therefore, issue No.3 is answered in the negative.

AS TO ISSUE NO.4 AND 5:-

22. The plaintiff has no right, title or interest in the suit property. He is not in possession of it. No one out of the share-holders of the alleged Rajsarathi Co-operative Housing Society has raised any objection to defendant No.4 and 5. So, there is no question to determine the status of the plaintiff regarding the suit property. In absence of his possession he is not entitled for perpetual injunction. So, also in absence of
C.J.S.D., Ahmedpur.

locus standi to file the suit prohibiting defendant No.3 from disbursing the compensation amount to defendant No.5, he is not entitled for the relief claimed in prayer clause No.1. Therefore, issue No.4 and 5 are answered in the negative.

AS TO ISSUE NO.5:-

23. The plaintiff has failed in establishing his nexus with suit property. So, he is not entitled for any relief. Therefore, in answer to issue No.5 I pass the following order -

:: ORDER ::

1. The suit is dismissed.
2. Parties to bear their own costs.
3. Decree be drawn up accordingly.

[Dictated and Pronounced in open Court.]

Date:06/05/2026.

Sd/-
(S.N.Sarde)
Civil Judge Senior Division,
Ahmedpur.