

MHLA050026952025



R.C.S. No.15/2025

Noorjahan Vs. Sagerabi

ORDER BELOW EXH.05

01. The suit is filed for possession and perpetual injunction wherein an application is submitted under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure, 1908.

02. In short the crux of the matter is that, the plaintiff and defendant No.1 to 13 are close relatives of each other. The husband of the plaintiff by name Shamshoddin and the husband of defendant No.1 by name Khajasab are the real brothers. Defendant No.2 to 9 are the children of Khajasab. Defendant No.10 to 13 are the children of Pashasab. Pashasab is the brother of defendant No.1. Defendant No.18 to 22 are Government Officers. Defendant No.1 to 17 are illegal possessors of the suit property.

03. The suit property is described as follows ;

Sr. No.	Old Survey No.	Area	Assessment	New Survey No.	Area	Assessment
1	7/3	2H 2R	Rs.2.00/-	7/1	46 R	Rs.0.46/-
2	7/2	40 R	Rs.0.40/-	80/3/1	22R	Rs.0.22/-
3	7/3	22 R	Rs.0.22/-	80/2/2	40 R	Rs.0.40/-
4	7/4	40 R	Rs.0.40/-	80/4/3	24 R	Rs.0.24/-
5	7/6	54 R	Rs.0.54/-	80/4/2	16 R	Rs.0.16/-
6				80/1	46 R	Rs.0.46/-
7				80/6/2	54R	Rs.0.54/-

04. These lands are adjacent to each other having boundaries as follows.

On or towards east :- Gayran

On or towards west :- Land of Sayyad Shamshoddin Kamaluddin and Subhash, Kailash, Satish Venkati Jadhav.

On or towards south :- The river.

On or towards north :- Land of Piraji, Housaji and land of defendant No.10 to 17.

05. The plaintiff is the owners of these properties. Out of them, 16 R land from Survey No.80/4/2 and 46 R land out of Survey No.80/1 R possessed by the plaintiff as owner. The boundaries of these two properties are as follows.

On or towards east :- Survey No.80/6/2 of the plaintiff.

On or towards west :- Survey No.80/4/3 of the plaintiff

On or towards south :- The river

On or towards north :- Land of plaintiff in Survey No.80/3/1 and land purchased by defendant No.14 to 17 from Ram Jaybhaye in Survey No.7/3.

06. The plaintiff has filed rough sketch of the suit properties along with the plaint.

07. Landed property at village Kalegaon, Tq. Ahmedpur are as follows ;

Sr. No.	Survey No.	Area	Assessment
1	80/3/1	22 R	Rs.0.22/-

2	80/2/2	40 R	Rs.0.40/-
3	80/4/3	24 R	Rs.0.24/-

07. The common boundaries of these properties are as follows.

On or towards east :- Landed property of the plaintiff in Survey No.80/4/2 along with the land of Venkati, Shankar, Ashok, Mahadu Nagargoje.

On or towards west :- Sayyad Shamshoddin Kamaluddin and land of Subhash, Kailas, Satish Jadhav.

On or towards south :- The river.

On or towards north :- Land of Piraji, Housaji Jadhav and land of defendant No.10 to 14.

Sr.No.	Survey No.	Area	Assessment
1	80/6/2	54 R	Rs.0.54/-

On or towards east :- Gayran

On or towards west :- Land of plaintiff in Survey
No.80/1

On or towards south :- The river.

On or towards north :- Land of Ashok, Shankar, Mahadu Nagargoje and Khijar Sayyad.

(hereinafter these properties shall be referred to as the suit property.)

8. The plaintiff purchased Survey No.80/4/2 and 80/1 on 03/06/1986 from her husband for consideration amount of Rs.8,000/-. Accordingly, the effect of the sale deed was given

by virtue of M.E. No.24 and the name of the plaintiff was recorded to the suit property. The land of the plaintiff was divided into five subdivisions of Survey No.7/3. Again that land was divided into six subdivisions. The name of the plaintiff is revealing to Survey No.80/1, 80/4/2, 80/6/2, but not to Survey No.80/2/2 and 80/4/3. Survey No.80/2/2 and 80/4/3 are recorded in the name of Khajasab Sayyad by showing a false partition deed between late Khajasab Sayyad and the husband of the plaintiff. Those lands were shown to be given to Khajasab. The mutation entries were recorded on sundays. The record of the year 1994 to 1999 of the suit properties is not available. Land Survey No.80/2/2 is shown in the name of Khajasab though it belongs to somebody else.

9. False record is prepared regarding Survey No.80/2/2 by preparing M.E. No.9142. Defendant No.18 to 22 gave letter to the plaintiff that, the record of M.E. No.9142 is not available. M.E. No.563 is also false and fabricated. M.E. No.1 showing change in the name of Survey No.80/2/2 is also bogus and false. After the demise of Khajasab, false M.E. No.1022 was prepared of the legal representatives. M.E. No.1002 is also false as it is regarding another person Shesherao Gaikwad. Defendant No.18 to 22 have prepared false documents of other defendants.

10. Late Pashasab got executed sale deed from Shamshoddin and Khajasab by showing false boundaries of the suit properties. M.E. No.98 is prepared falsely to show the

title of Pashasab. But, M.E. No.98 originally belongs to another person Hashmi Agasab. Survey No.80/6/2 is of the plaintiff but defendant No.14 to 17 have encroached upon it. Defendant No.14 to 17 have purchased some land Ramji Jaybhaye, but they are in excess possession of the land, which is owned by the plaintiff. The land purchased by defendant No.14 to 17 in Survey No.7/3 of village Kalegaon and the land bearing Survey No.80/3/2 purchased by defendant No.17 from Mahananda Nagargoje are not properly described in the sale deeds. In order to grab the land of the plaintiff all sale deeds are prepared.

11. The plaintiff had filed R.C.S. No.417/2015 against defendant No.1 to 4 and subsequently, withdrew it for technical difficulties. She was driven out of the suit property by defendant No.1 to 17. Hence, the suit is filed for possession and temporary injunction is sought that, defendant No.1 to 17 be restrained from alienating the suit property till the disposal of the suit.

12. Defendant No.1 to 4 filed their written statement cum say to the petition Exh.40 and contended that, the contents in the plaint are false and the blatant lie. The plaintiff had filed R.C.S. No.417/2014 for present suit properties, which was withdrawn on 13/01/2025. So, the defendant should be given possession.

13. The cause of action is false. The possession of defendant No.1 to 17 upon the suit properties is proper and legal. Defendant No.18 to 22 are illegally made parties. The description of the suit properties is false. The boundaries of the suit properties are falsely mentioned by the plaintiff in the suit. The description of the suit properties in R.C.S. No.417/2014 and the present suit is differently shown by the present plaintiff. The husband of the plaintiff by name Shamshoddin was not the owner of Survey No.7/3 area 2 H 2 R. Mutation entry No.24 is false. Shamshoddi in consonance with the revenue officer entered his own name to the 7/12 extract of Survey No.7/3 without having any title. There is no transaction between Shamshoddin and his wife Noorjaha (present plaintiff). There was no passing of consideration by way of sale deed. The mutation entry bearing No.24 is false, as there was no sale deed between Shamshoddin and Noorjaha.

14. R.C.S. No.67/1962 was filed by Sayyad Kamaloddin against Sayyad Chunnuminya, which was compromised. In it Shamshoddin and his mother Masumbee got 3 acres of land. Shamshoddin was never the owner of Survey No.7/C, area 2 H 2 R. So, he cannot pass title of that property to the plaintiff.

15. Mutation entry No.426 is false and wrongly prepared. Late Khajasab got entered his name to Survey No.80/2/2 area 40 R and Survey No.80/4/3 area 24 R. The contents in the plaint regarding execution of mutation entry on Sundays and

vanishing the record of the suit properties between 1994 to 1999 is false.

16. The plaintiff file R.T.S. appeal to cancel mutation entry No.563 and 1022, which was rejected by the S.D.O. and even by the District Collector. The mutation entry No.1022 was sanctioned after the demise of father of the defendant by name Khajasab replacing his successor at his place i.e. mutation entry is not objected to by the plaintiff. Survey No.80/2/2 and 80/4/3 are owned and possessed by the defendants.

17. Kamaloddin and his wife Masumbee gave Survey No.7/2 area 40 R and Survey No.7/4 area 24 R (New Gat No.80/2/2 and 80/4/3). These lands were given to Khajasab, but his name was not entered to those lands. By taking disadvantage of these facts Shamshoddin executed sale deed in favour of the plaintiff of Survey No.7/3 by showing false boundaries. Shamshoddin or the plaintiff are never in possession of the suit properties. Shamshoddin and the plaintiffs are not the owners of the suit properties. There was a memorandum to understanding in the year 1993. In which the defendants have obtained loan upon the land. So, the suit and application may be dismissed.

18. Defendant No.7 to 9 adopted say of defendant No.1 to 4.

19. Defendant No.10, 12, 14 to 17 filed their written statement below Exh.45 and denied all the contents in the plaint. They also have reiterated the contents of the say of defendant No.1 to 4 and contended that, the suit may be dismissed along-with the application.

20. Heard Ld. Advocates for the parties. Following points arose for my determination. I am reproducing them alongwith my findings thereon as under :

<u>Sr.No.</u>	<u>POINTS FOR DETERMINATION</u>	<u>FINDINGS</u>
1)	Whether the plaintiff proves prima facie case ?	Yes
2)	Whether balance of convenience tilts in his favour ?	Yes
3)	Whether irreparable loss would be caused to the plaintiff if the application is rejected ?	Yes
4)	What order ?	As per final order

REASONS

AS TO POINT NO.1 TO 4

21. The Plaintiff has filed various document to prove his case. The sale deed between Noorjahan and her husband Shamshoddin shows that she purchased Gat no.7/3 area 2 H.2R for a consideration of amount of Rs.8000/-. It was executed on 03/06/1986. Its effect was given to M.E.No.24. M.E.No.26 shows that there was corrigendum. M.E.no.26

shows that according to possession, 2 hector land of Noorjahan was divided into 5 pieces in different survey numbers as follows.

Survey No.	Area H-R	Assessment R-Paise
7/1	0-46	0-46
7/2	0-40	1-00
7/4	0-40	
7/6	0-54	1-07
7/3	0-22	0-22

22. M.E.No.563 shows that survey No.7/2 area 40 R and survey No.7/4 area 24 R are put to the share of Khaja Sayyed Kamaloddin as per family arrangement or partition. The M.E. was certified on 20/06/1993 which was a sunday. According to the defendant, Kamaloddin and his wife Masoombi partitioned the land S. No. 7/2 area 40 R and S. NO. 7/4 area 24 R to Khajasaab in the year 1984. But he did not record his name to the record and that is why Shamsoddin transferred that property to the plaintiff by way of a saled deed which is hollow and without consideration.

23. It is the contention of the plaintiff that the record from the year of 1994 to 1999 is not available. Noorjahan filed RCS No.417/2014 for perpetual injunction against present def.no.1,2,3 and 4 and that suit is withdrawn on 13/01/2025. It is the contention of defendants that the sale

deed of Noorjahan is improper as the boundaries of the land in the sale deed are false. There is no transferable right to shamoshoddin to transfer the property to Noorjahan. There is partition of land and 30 years have passed to M.E.no.563. It is unobjected.

24. The prayer of the plaintiff is limited that defendants may be restrained from transferring the suit property. The title of the suit property is disputed. So by the time the suit is decided, it is necessary to protect interest of the parties. Therefore it is necessary to pass the following order.

ORDER

1. Defendants are hereby temporary restrained from transferring the suit property till decision of the suit.
2. The injunction order shall come to an end on the expiry of one year from today if the evidence is not adduced by the plaintiff on the issues framed today.
3. Cost in the main cause.

Sd/
(S.N.Sarde)
Civil Judge Sr. Div., Ahmedpur

Date: 19/06/2026.