

	Instituted on : 23.12.2016
	Registered on : 23.12.2016
	Decided on : 16.03.2026
	Duration : 09 Yrs. 02 Ms. 21 Ds.

IN THE COURT OF JT. CIVIL JUDGE

(JUNIOR DIVISION) AHMEDPUR,

TQ.AHMEDPUR, DIST. LATUR.

(Presided over by **Swanandi D. Wadgaonkar**)

Reg. Civil Suit No.816/2016

Exhibit. No.72

CNR No.MHLA060020992016

1. Narhari S/o Vittalrao Shinde,(Abated)

Age: 60 Yrs, Occupation : Agri,

2. Smt. Pushpabai W/o Ashok Shinde,

Age: 40 Yrs, Occupation : H.H & Agri,

3. Vasant S/o Gangadhar Shinde,

Age: 30 Years, Occupation : Agri,

All R/o. Ahmedpur, Tq. Ahmedpur Dist Latur

...Plaintiffs

-:Versus:-

1. Pratiksha D/o Gangadhar Shinde,

Age: 20 Yrs, Occupation : H. H,

2. Prahlad S/o Kashinath Dandge,

Age: 55 Yrs, Occupation : Agri,

3. Smt. Aruna W/o Gangadhar Shinde,

Age: 46 Years, Occupation : Nil,

**4. Sow. Pratidnya W/o Naraba @ Naresh
Gaikwad,**

Age: 30 Yrs, Occupation : Agri,

All R/o Umarga Yelladevi, Tq.Ahmedpur,

Dist.Latur.

5. Pranita W/o Manoj Wanje,

Age: 30 Yrs, Occupation : H. H. & Agri,

6. Manoj S/o Sheshero Wanje,

Age:35 Yrs, Occupation : Agri,

Both R/o Kavalgaon, Tq.Vasmat,

Dist.Parbhani

..Defendants

Claim:- The suit is for perpetual injunction and declaration of ownership.

Advocates:- Mr. B. B. Kshirsagar - Advocate for the Plaintiff
Mr. S. M. Yerte - Advocate for Defendants No.1
and Mr. S. G. Patange Advocate for Defendant
No.2 and 3.

The suit is ex-parte against defendants No.4, 5
and 6.

-: JUDGMENT :-

(Delivered on this 16th day of March, 2026)

01. The properties in dispute are situated at village Ahmedpur bearing Gat No.96 adm.25 R, Gat No.97 adm.57 R, Gat No.112/3 adm. 77 R, Gat No.148/1 adm.77 R, Gat No.149/1 adm. 1 H. 59 R, Gat No.76/2 adm. 1 H 21 R, Gat No.76/3 adm. 1 H. 22 R, Gat No.76/4 adm. 1 H. These properties are more particularly described in para No.7 of the plaint. (Henceforth, for the sake of brevity these properties will be referred as “the suit properties”).

Admitted facts :-

02. The relationship among the plaintiffs and the defendants except the fact that plaintiff No.3 is the adopted son of

defendant No.2, is undisputed fact. Defendants No.1, 3 and 5 are the daughters of defendant No.2 and one deceased Gangadhar. Plaintiff No.1 is the brother of Gangadhar and plaintiff No.2 is the wife of deceased brother of Gangadhar viz Ashok. Defendant No.4 is the husband of defendant No.3 and defendant No.6 is the husband of defendant No.5.

03. Plaintiff No.1 is dead and plaintiffs No.2 and 3 failed to take steps to bring legal heirs of plaintiff No.1 on record. Hence, the suit against plaintiff No.1 is abated vide order below Exh.1 dated 12.11.2025.

04. The facts averred by the plaintiff in brief are as follows;

Plaintiff No.3 is the adopted son of defendant No.2 and deceased Gangadhar. Plaintiff No.3 is the biological son of plaintiff No.1. Plaintiff No.3 has been adopted by defendant No.2 and Gangadhar by performing adoption ceremony and by registered adoption deed. One daughter of defendant No.1 and Gangadhar viz Pratibha is dead. That Pratibha and defendant No.5 had executed relinquish deed on 01.03.2007 bearing D. B. No.463/2007 regarding their share in joint family properties in favour plaintiff No.3 and defendants No.1, 2 and 3 in presence of the witnesses. The mutation entry No.2885 is sanctioned on the basis of the said relinquish deed. Thereafter, mother of plaintiff No.1 by name Jijabai Vitthal Shinde and defendants No.1 to 3 surrendered their rights and interest in the joint family properties vide registered relinquish deed dated 24.04.2014 bearing D. B. No.1246/2014 in favour of plaintiffs No.1, 3 and

husband of plaintiff No.2 viz Ashok Vitthal Shinde. On the basis of that relinquish deed mutation entry No.5956 came to be sanctioned. Accordingly, defendants have no right or interest in the joint family properties of the plaintiffs. After execution of the relinquish deeds, the value of the suit properties got increased. The defendants No.1 to 3 and 5 on instigation of defendants No.4 and 6 started demanding partition in suit properties and obstruction to the possession of the plaintiffs over the suit properties. The defendants have left with no interest in the suit properties after execution of the relinquish deeds. Defendant No.1 in order to grab the suit properties filed illegal and collusive civil suit bearing Spl C. S No.4/2016 before Hon'ble Civil Judge Senior Division, Ahmedpur. On 16.12.2016 the defendants obstructed peaceful possession of the plaintiffs over the suit properties and refused to stop obstruction. Hence, on the basis of that cause of action the plaintiffs prayed for perpetual injunction restraining the defendants from causing obstruction and interference in their peaceful possession over the suit properties and for declaration that they are the owners and possessors of the suit properties.

05. Defendant No.1 filed written statement at Exh.20 which is adopted by defendants No.2 and 3 vide adoption pursis Exh.23. They all contended that the suit is bad for non-joinder of necessary parties. The suit is not maintainable as the suit Spl C. S No.4/2016 filed by defendant No.1 and the present suit is one and the same. Defendant No.1 has challenged of relinquish deeds in that suit and prayed for partition, separate possession and declaration that all the relinquish deeds are null and void to the

06. My Ld. Predecessor had framed issues at Exh.34. I reproduce those issues with reasons and findings thereon as follows;

Sr. No.	Issues	Findings
1.	Do the plaintiffs have prove their ownership over the suit property ?	No.
2.	Do the plaintiffs have prove their possession over the suit property?	No.
3.	Do the plaintiffs have prove obstruction at the hands of defendants over the suit property?	No.
4.	Whether the suit is hit by principle of non joinder of necessary parties?	Yes.
5.	Whether the suit is undervalued?	Yes.
6.	Whether the plaintiff is entitled for relief of declaration & injunction?	No.
4.	What order and decree?	As per the final order.

REASONS:-

07. The plaintiff examined plaintiff No.1 at Exh.39. The defendant failed to conduct cross-examination of plaintiff No.1. Hence, order as to proceed without cross-examination by the

defendants came to be passed below Exh.39 on 20.07.2022. The plaintiff relied on the documentary evidence such as mutation entry No.2729 at Exh.55, mutation entry No.2885 at Exh.56, mutation entry No.5916 at Exh.57, the account extract of plaintiff No.1 at Exh.59, 7/12 extract of Gat No.96 at Exh.59, 7/12 extract of Gat No.97 at Exh.60, 7/12 extract of Gat No.112/3 at Exh.61, 7/12 extract of Gat No.148/1 at Exh.62, 7/12 extract of Gat No.149/1 at Exh.63, the account extract of plaintiff No.1 at Exh.64, 7/12 extract of Gat No.76/2 at Exh.65, the account extract of plaintiff No.3 at Exh.66, 7/12 extract of Gat No.76/3 at Exh.67, the account of husband of plaintiff No.2 Ashok Shinde at Exh.68, 7/12 extract of Gat No.76/4 at Exh.69 and certified copy of Exh.1 of Spl.C.S. No.4/2016 at Exh.71.

08. The defendants No.1 to 3 failed to lead evidence. Hence, evidence of their evidence is closed vide order below Exh.1 dated 23.12.2025.

As to issue No. 4:-

09. The suit is abated against plaintiff No.1 vide order below Exh.1 dated 12.11.2025. As per the plaintiffs, deceased Pratibha and defendant No.5 executed relinquish deed on 01.03.2007 in favour of plaintiff No.3 and defendants No.1, 2, 3. Subsequently, mother of plaintiffs No.1 by name Jijabai Vithalrao Shinde and defendants No.1 to 3 had relinquished their share in the suit properties in favour of plaintiff No.1, plaintiff No.3 and husband of plaintiff No.2. On the basis of those relinquish deeds plaintiffs are claiming their ownership over the entire suit properties.

10. Firstly, plaintiffs No.1 to 3 are in joint claiming

ownership over the suit properties and suit is abated against plaintiff No.1. Secondly, the plaint is silent on the point of heirs of plaintiff No.1, other heirs of deceased Ashok i.e. husband of plaintiff No.2 and other sisters or brothers of plaintiff No.1 and deceased Gangadhar if any. Even if for a moment, it is assumed that defendants No.1, 2, 3 and 5 have relinquished their share but this does not ipso facto confers full ownership upon the plaintiffs since the plaint is silent on the point of above mentioned heirs. Hence, due to abatement of suit against plaintiff No.1 and due to non disclosure of heirs of deceased Ashok and other brothers and sisters if any of plaintiff No.1 and deceased Gangadhar, issue to ownership of plaintiffs over the suit properties cannot be decided. They are the necessary parties to the suit. Hence, suit is hit by principle of non-joinder of necessary parties. Thus, I answer issue No.4 in the affirmative.

As to issue No. 1:-

11. In view of affirmative finding to issue No.4, the suit is bad for non-joinder of necessary parties. The plaintiffs are claiming exclusive ownership over the suit properties which are joint family properties without including all the coparceners party to the suit. Further, the plaintiffs are claiming ownership over the entire suit properties on the basis of relinquish deeds executed by defendants No.1, 2, 3 and 5 in favour of the plaintiffs. The plaintiffs have not proved relinquish deeds executed by the aforementioned defendants. Therefore, the plaintiffs could not prove their exclusive ownership over the suit properties. Hence, I answer issue No.1 in the negative.

As to issue No.2:-

12. The plaintiffs have produced on record the 7/12 extracts of the suit properties. The 7/12 extract of suit property Gat No.96, 97, 112/3, 148/1 and 149/1 stand in the name of plaintiff No.1 along with plaintiffs No.3 and deceased husband of plaintiff No.2, suit property Gat No.76/2 stands in the name of plaintiff No.1, suit property Gat No.76/3 stands in the name of plaintiff No.3, suit property Gat No.76/4 stands in the name of deceased husband of plaintiff No.2. Therefore, it is clear that the suit properties are either in the joint names of plaintiffs No.1 to 3 or plaintiff No.1 or plaintiff No.3 or deceased husband of plaintiff No.2. The suit is abated against plaintiff No.1. The suit is bad for non-joinder necessary parties since all the heirs of deceased husband of plaintiff No.2 are not disclosed in the plaint. In the circumstances, it is not proper to record the finding that exclusively plaintiffs No.1 to 3 are in possession of the suit properties. Hence, I answer issue No.2 in the negative.

As to Point No.5:-

13. The plaintiffs are claiming declaration of ownership over the suit properties. As per Section 6(iv)(d) of the Maharashtra Court Fees Act, the plaintiff is bound to pay the court fee on the ad volorem of the suit properties. The valuation of the agricultural lands is calculated on the revenue assessment. The suit properties are not described properly in para. No.6 of the plaint since, the assessment is not mentioned and without mentioning assessment of the suit properties the valuation is made in para No.10 of the plaint. Thus, it does not seem to be proper. Hence, there are circumstances which lead to record the

finding that the suit is undervalued or improperly valued. Hence, I answer issue No.5 in the affirmative.

As to issues No.3 and 6:-

14. In view of affirmative finding to issue No.4, firstly the suit is bad for non-joinder of necessary parties and secondly in view of negative findings to issues No.1 and 2, the plaintiffs could not prove their exclusive ownership and possession over the suit properties. In order to grant the prayer of perpetual injunction, firstly, the possession must be proved. If one party is proved to be in possession then only question of obstruction arises. Since the possession of the plaintiffs is not proved, the obstruction cannot be proved. So also, since the title or ownership is not proved no declaration to that effect can be granted. So also, the suit is bad for non-joinder of necessary parties and it is under valued. Therefore, owing to all the reasons the plaintiffs are not entitled for the relief of declaration and perpetual injunction as prayed.

15. The plaintiffs and the defendants have contended that one Spl C.S. No.4/2016 is pending before Hon'ble Civil Judge Senior Division, Ahmedpur which is instituted by defendant No.1 for partition in which the relinquish deeds executed by defendants No.1, 2, 3, and 5 are challenged. Therefore, the substantial questions involved in the present suit and that suit seems to be one and the same. The parties are also one and the same. The plaintiffs have produced on record a copy of Exh.1 of Spl C.S. No.4/2016. Therefore, it seems that the trial of the either suit ought to have been stayed. As none of the parties to the suit raised application to stay the trial, the trial of the present suit proceeded further. None of the parties have filed on record status

(Jud. Ex.72) ..10.. Reg. Civil S. No.816/2016
of Spl C.S. No.4/2016. Therefore, considering the Spl C.S.
No.4/2016 the prayers claimed are not maintainable. Hence, I
answer issues No.3 and 6 in the negative.

As to issue No.7:-

16. In view of negative finding to issue No.6 the plaintiffs
are not entitled for any reliefs claimed. In result, the suit is liable
to be dismissed. Hence, to answer issue No.7 I pass the following
order;

ORDER

1. The suit dismissed.
2. Both the parties to bear their own cost of
the suit.
3. Decree be drawn up accordingly.

Place :- Ahmedpur,
Date :- 16.03.2026.

(**Swanandi D. Wadgaonkar**)
Joint Civil Judge (Jr.Dn.)
Ahmedpur.