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	Decided on	:	06/05/2026
	Duration	:	13 Y. 2 M. 5 D.

**IN THE COURT OF CIVIL JUDGE J.D. CHAKUR, TQ.
CHAKUR DIST. LATUR**

(Presided over by Shri. Vikas S. Waghmode)

Civil Suit No.27/2013

Exh. No.

Kishan Apparao Bhosale,
....died. His Lrs...

- 1/1. Smt. Aruna w/o. Kishan Bhosale,
Age: 55 Occupation : Agri.,
- 1/2. Dattatraya Kishan Bhosale,
Age: 22 Occupation : Labour,
- 1/3. Shivaji Kishan Bhosale,
Age: 18 Occupation : Education,
All r/o. Hali (kh.), Tq. Chakur
Tq. Chakur Dist. Latur
At present Kingaon, Tq. Ahmdepur,
Dist. Latur.

..PLAINTIFFS.

VERSUS

1. Suryakant Shivram Jadhav,
Age: 52 Occupation : Agri.,
2. Narayan Shivram Jadhav,
Age: 62 Occupation : Agri.,
3. Vinayak Shivram Jadhav,
Age: 60 Occupation : Agri.,
All r/o Hali kh. Tq. Chakur,
Dist. Latur

..DEFENDANTS.

CLAIM :- Suit for perpetual injunction with declaration of ownership.

Advocate for Plaintiff : S.B. Whatte
Advocate for Defendants : S.G. Kulkarni

J U D G M E N T

(Delivered on 06.05.2026)

Plaintiff filed suit for perpetual injunction with declaration of ownership.

2. Suit property is described as follows :

The gram panchayat house old no.48 and new no. 33 adm. East-West 16.6 and South-North 35 situated at village Hali kh. Tq. Chakur Dist. Latur. Boundaries are as follows ;

Towards East –	Way of plaintiff and thereafter house of Bhagwat Laxman.
Towards West -	The house of Shivng Gangaya Swami.
Towards South -	House of Gangaram Apparao Bhosale
Towards North -	Govt. way

The said property hereinafter referred as '**suit property**'.

3. In a nut shell, the case of plaintiff's is that, deceased father of plaintiff no.1 was owner and possessor of suit property. After death of father of plaintiff no. 1, he became owner of suit property. During life time of father of plaintiff, he was having possession of suit property. There is Tin shed on the suit property. Plaintiff no. 1 used to keep his material in the said Tin shed. He is enjoying the possession of suit property peacefully. The name of plaintiff no. 1 is entered in the assessment list i.e.

namuna no.8 of suit property which is maintained by Gram panchayat Hali kh. Every year plaintiff is paying the tax of the suit property. Defendants are not having any right over suit property. They are denying the title of plaintiff no. 1 over suit property. They are obstructing the peaceful possession of the plaintiff over suit property. Plaintiff requested the defendants for not obstructing his possession, but on 25.11.2012 defendants refused the request. Hence, this suit is for declaration of ownership over suit property and perpetual injunction against defendants.

4. Defendants filed their written statement below exh.16. They denied averments of plaintiff. They came with the case that, plaintiff has suppressed material facts and has not come with clean hand before court. Defendants submits that, defendant no.1 purchased suit property from deceased plaintiff no. 1 Kishan Apparao Bhosale for Rs.2,000/- executing registered sale deed bearing no. 2478/81, having registration no. 180/96. The consideration amount of the said sale deed was given to deceased plaintiff no.1 in presence of witness Tatyarao Baburao Jadhav and Bhagwat Laxman Jadhav. The possession of suit property was handed over on the same date. Defendants are bonafide purchaser of suit property. After execution of said sale deed, defendant no.1 had applied to Gram Panchayat Hali Kh. for mutation. But, the opposite group of defendant no.1 neglected and avoided the mutation of defendant no.1. In spite of reminder by him, Gram panchayat Hali kh. has not sanctioned the mutation entry in the name of defendant no.1 due to political rivalry. Defendants are in possession of suit property

since execution of the above said sale deed. They have constructed Tin shed and placed some material in the said Tin shed. Plaintiff is taking disadvantages of entry in the assessment list of suit property. The false suit is filed by plaintiff against them. Hence, they prayed to dismiss the suit.

5. Heard Learned adv. Shri. S.B. Whatte for plaintiff and Shri. S.G. Kulkarni for defendants. Considering the above rival contentions of parties, issues has been framed at Exh.19 and I have recorded my findings thereon for the reasons stated thereunder.

Sr. No.	ISSUES	FINDINGS
1.	Does plaintiff prove that he is the owner of the suit property as shown in para no.3 of the plaint ?	In the negative.
2.	Does plaintiff prove his possession upon the suit property as shown in para 3 of the plaint ?	In the negative.
3.	Does plaintiff prove that the defendants are disturbing his peaceful possession upon the suit property ?	In the negative.
4.	Is plaintiff entitled for the relief of declaration as claimed ?	In the negative.
5.	Is plaintiff entitled to the relief of injunction sought ? If so, what ?	In the negative.
6.	What order & decree ?	As per final order.

REASONS

6. In order to prove claim, the plaintiff Kishan Bhosale examined himself below exh.22 and examined witness P.W. No.2

Ram Apparao Bhosale at exh.28. Plaintiff relied on namuna no.8 of suit property at exh.7. Plaintiffs filed evidence close pursis below exh.29 and 39. Defendant examined D.W.1 No. Narayan Shivram Jadhav at exh.44, D.W. No.2 Shivling Gangaya Swami at exh.45, D.W. No.3 Bhagwat Laxman Jadhav at Exh.46 and examined D.W. No.4 Parmeshwar Babruwan Nistalkar at Exh.70. They relied on certified copy of sale deed bearing no.180/96 at Exh.71. On 09.01.2026 the evidence of defendant is closed as per order below exh.1.

As to issue no.1 and 4 :

7. The witness of plaintiffs deposed that, plaintiff Kishan Apparao Bhosale is owner of suit property. Whereas the witness of defendants deposed that, defendant no.1 purchased suit property from plaintiff Kishan Apparao Bhosale for Rs.2,000/-. Under such circumstance both the parties on the basis of oral evidence claiming ownership over suit property. But, defendants have filed and proved the certified copy of sale deed bearing no.180/1996 as per Exh.71. On perusal of certified copy of sale deed at Exh.71 it appears that, there was execution of sale deed of the plot having North-South width of 33 feet, and East-West length of 18 feet. The four boundaries appears to be matched with the description of suit property given by plaintiff. D.W. No.4 deposed that, Kishan Apparao Bhosale had sold the plot having above description to defendant no.1 as per document dated 07.08.1981. Plaintiff denied the execution of such sale deed by him. But, it is required to note that in present suit, plaintiff no. 1 has not challenged the execution of said sale deed. Plaintiff has not brought any material on record to show

that, he has made complaint with respect to execution of sale deed bearing no. 180/96. When plaintiff is claiming ownership over suit property then it was required to brought material to disbelieve the documentary evidence i.e. sale deed at exh.71. But, there is no material brought by plaintiff to disbelieve the sale deed at exh.71. Defendants have examined the attesting witness to the sale deed namely Bhagwat Laxman Jadhav. Who deposed that, the sale deed bearing no.2478/81 and register no.180/96 was signed by him. Plaintiff has not brought any material during cross-examination of D.W. No.3 to disbelieve him. Therefore, defendants proved that there was execution of sale deed with respect to suit property.

8. In contrary to sale deed at exh.71 plaintiff relied on the revenue record i.e. extract of namuna no.8 at exh.7 wherein the name of plaintiff Kishan Apparao Bhosale is mentioned. But, Hon'ble Apex court in the Judgment of **Gurunath Manohar Pavaskar & ors. Vs.. Nagesh Sidhappa Nawalgund and ors., (2007) 13 SCC 565**, held in para no. 12 that, revenue record is not a document of title. Therefore, extract of namuna no.8 cannot be a document of title over the suit property. If there is execution of sale deed as per Exh.71 then, plaintiff has to prove that the sale deed is void or it is invalid. Plaintiff has not challenged the said sale deed, only denied the execution of said sale deed in his cross-examination. Whenever the title of any property is challenged in the suit then the person who is claiming ownership over suit property is require to clear all doubt about the title of the property. In present case except denial nothing has been brought by plaintiff in contradiction to

sale deed at exh.71. Without challenging the sale deed at Exh.71, suit for declaration of ownership is not maintainable.

9. Under sec. 90 of Indian Evidence Act, it is provided that where any document proved to be 30 years old is produced from any custody which the court in particular case considers proper, the court may presume that the signature and every part of such document which purport to be in handwriting of any person, is in that person's handwriting, and, in case of document executed or attested, that it was duly executed and attested by the person by whom it purport to be executed and attested. In present case certified copy of Exh.71 is executed at the office of Sub Registrar Ahmedpur on 07.08.1981 and it is pleaded by defendants in the year 2013. Therefore, defendants have brought the material through the witness D.W. No.4 who is clerk at Sub Registrar office, Ahmdepur. D.W. No.4 is considered to be proper custodian of original document of sale deed at exh.71. In view of sec. 90 and as per the deposition of attesting witness D.W. No. 3 namely Bhagwat Laxman Jadhav, there is presumption about the execution and attestation of sale deed by plaintiff Kishan Apparao Bhosale in the year 1981. The sale deed bearing no.180/96 having day book no.2478/81 at Exh.71 is 30 years document and it has presumption of it's execution. Nothing has been brought by plaintiff to rebut the said presumption. Hence, plaintiff fails to prove that, he is owner of suit property. Therefore, issue no.1 is not proved by plaintiff and accordingly it is answered as negative. Therefore, plaintiff is not entitled for declaration of ownership over suit property. Hence, answer to issue no.4 is in the negative.

As to issue no. 2, 3 and 5 :

10. Plaintiff deposed that, his father namely Apparao Ramji Bhosale was having possession over suit property. His father was paying the house tax of suit property to the Gram Panchayat. After death of his father, plaintiff became possessor of suit property. Suit property was having house no.40 and new house no.33 was allotted to suit property. Every year plaintiff is paying assessment tax of suit property to gram panchayat. But plaintiff has not proved any receipt of assessment tax paid by him or by his father. In contrary defendant no.2 deposed that after execution of sale deed bearing no. 180/96, day book no.7478/81, suit property is in possession of defendants.

11. So oral deposition of plaintiff and defendant no.2 are in contrary to each other. Under such circumstance the documentary evidence and other corroborative evidence with respect to possession is required to be proved by the party to the suit. On perusal of the assessment list form no.8 at Exh.7, it appears that it is issued in the year 2012 and it is of the year 2010-2011. Further it appears that the name of plaintiff is mentioned on it alongwith house no. 33 is mentioned. Whereas on perusal of certified copy of sale deed at exh. 71, it appears that it is specifically mentioned that the possession is handover to the defendant no.1. In view of oral deposition and above documents the onus to prove the possession over suit property is same on both the parties. The evidence of both the parties up to this point are equal.

12. Hon'ble Apex court in the judgment of **Vishal Singh and another Vs.. State of M.P., (1998) 9 SCC 90** in para no.4

held that, entry in revenue record about possession of land in favour of a person is not conclusive and it would only give rise to rebuttable presumption. In present case in view of Namuna no.8 and entry of plaintiff in it may raise presumption of possession of suit property.

13. Defendant no.2 in his oral evidence stated that, he had applied to gram panchayat for entering their name on the form 8 assessment list of suit property. But, the Sarpanch of the gram panchayat Hali kh., was belonging to the opposite party to the defendants. Hence, defendants fails to entered their name on the form 8 of suit property. In fact, plaintiff is disadvantageously taking benefit of entry on form 8 of suit property.

14. Further during cross-examination of plaintiff he admitted that, since last 20 to 22 year he is residing at Kingaon. He is not having ration card or voter I.D., of the village Hali Kh. wherein the suit property is situated. This circumstance shows that, plaintiff is not residing at the place where suit property is situated. During cross-examination of plaintiff, he further admitted that he is not having any receipt of the Tin shed which is situated at suit property. Further plaintiff has not proved any receipt to show that, he is paying house tax to the local authority of the suit property. In view of this oral evidence during cross-examination and the sale deed proved by defendant rebut the presumption that plaintiff is in possession of suit property.

15. Plaintiff has disclosed that on western side of suit property there is house of Shivling Gangaya Swami. It means that plaintiff admit that D.W. No.2 Shivling Gangaya Swami is adjoining house owner of suit property. Defendant examined

D.W. No.2 and he deposed that, defendant is in possession of suit property. In order to disbelieve this oral evidence, plaintiff has brought material that the said witness is interested witness because he was having wish to purchase the suit property. But it is require to note that, merely this witness was having wish to purchase the suit property does not mean he is deposing false. There is no material to disbelieve the witness. Hence, defendant has placed sufficient material to rebut the presumption of possession over suit property on the basis of revenue records i.e. namuna no. 8.

16. Plaintiff has disclosed that on eastern side of suit property there is house of Bhaagwat Laxman. It means that plaintiff admit that D.W. No. 3 Bhagwat Laxman Jadhav is adjoining house owner of suit property. Defendant examined D.W. No.3 and he deposed that, defendant is in possession of suit property. In order to disbelieve this oral evidence, plaintiff has not brought any material. There is no material to disbelieve the witness. Hence, defendant has placed sufficient material to rebut the presumption of possession over suit property on the basis of revenue records i.e. namuna no. 8.

17. Further it is require to note that plaintiff Kishan Apparao Bhosale is died and his legal heirs are made party to the suit, but there is no material on the record to show that, the name of legal heirs of deceased plaintiff Kishan Apparao Bhosale are entered on the revenue records. Hence, plaintiff fails to prove the possession over suit property. Therefore, issue no.2 is answered in negative.

18. Plaintiff has pleaded that, on 25.11.2012 he had

requested the defendants not to obstruct and interfere in possession of suit property in presence of respectable panchas. In order to prove this fact plaintiff has not disclosed the name of any panchas before whom such request made by him. Further no any such panch witness is examined by plaintiff to show that he had made request to the defendants. In view of above discussion, defendants have proved that they have better title to suit property as compared to plaintiff.

19. In order to understand the possession of suit property it is require to reproduce the meaning of possession. According to Salmond, “ the possession of material object is the continue exercise of a claim to the exclusive use of it”. Thus, possession involves two things 1- claim of exclusive user and 2- conscious or actual exercise of this claim i.e., physical control over it. The former is mental element called as animus possessionis and the latter is physical element known as the corpus possidendi.

20. In present case, plaintiff is not residing at the place where the suit property is situated. Further there is no material or pleading that there is continuous disturbance and interference over possession of suit property. This shows that, the possession of suit property is not the continue exercise of a claim to the exclusive use of it”. In view of above discussion, plaintiff on the basis of preponderance of probability has not proved animus possessionis and corpus possidendi. Hence, plaintiff has not proved issue no.3. In view of answer to issue no.1 and 3 plaintiff has not proved the possession over suit property and also not proved that defendants have obstructed possession of him over

the suit property. So, plaintiff is not entitled to relief of injunction as prayed. Hence, answer to issue no.2, 3 and 5 are in the negative. For issue no. 6, I proceed to pass following order.

Order

1.	Suit is dismissed with costs.
2.	Decree be drawn up accordingly.

Place : Chakur
Date : 06.05.2026

[V. S. Waghmode]
Civil Judge, J. D., Chakur.

CERTIFICATE

I affirm that the contents of this P.D.F. file judgment are same, word to word, as per original judgment.

Name of the Sr. Clerk	:	S. V. Deshpande
Name of the Court	:	Civil Judge J.D. & J.M.F.C, Chakur.
Date of Judgment	:	06/05/2026
Judgment signed by Presiding Officer on	:	06/05/2026
Judgment uploaded on	:	06/05/2026