

MHND080003642020 	Presented on	:	03.07.2020
	Registered on	:	03.07.2020
	Decided on	:	10.06.2026
	Duration	:	05-Y.11-M.07-D.

**IN THE COURT OF AD-HOC DISTRICT JUDGE -2,
KANDHAR**

(Presided over by : B. U. Choudhari)

Regular Civil Appeal No.18/2020

EXHIBIT - 24

Appellants : [Ori.defendents]	1.	Ananda S/o. Pandurang Sonwane Age : 65 years, Occu. : Agri.,
	2.	Shaikh Shahaboddin S/o. Mohd. Gous Age : 56 years, Occu. : Agri.,
	3.	Shaikh Mohammad S/o. Shaikh Nawaz Age : 45 years, Occu. : Agri.,
	4.	Sayyadsab S/o. Haidarsab Choudhari Age : 60 years, Occu. : Agri., All R/o. Panbhosi, Tq.Kandhar, Dist.Nanded.
		Versus
Respondents : [Respondent No.1 is original plaintiff and respondent Nos. 2 to 4 are defendant Nos. 5 to 7]	1.	Sambhaji S/o. Ramji Patil Age : 50 years, Occu. : Agri.,
	2.	Madhav S/o. Vankoba Naikwade Age : 40 years, Occu. : Agri.,
	3.	Rangrao S/o. Munjaji Naikwade Age : 62 years, Occu. : Agri.,

	4.	Baliram S/o. Venkoba Naikwade Age : 27 years, Occu. : Agri., All R/o. Panbhosi, Tq.Kandhar, Dist.Nanded.
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Claim: Appeal Under Section 96 read with Order XLI of the Code of Civil Procedure, 1908...

Advocate for Appellants - Shri. K. S. Baig
Advocate for Respondents - Shri. A. G. Puranik

J U D G M E N T

(Delivered on 10th day of June, 2026)

This appeal is directed against the Judgment and decree passed by the learned Civil Judge Sr. Division, Kandhar in **RCS No.03/2008** on **10.12.2018** whereby the learned Judge has partly decreed the suit for declaration and Perpetual injunction.

2. Respondent No.1 is the original plaintiff and appellant Nos. 1 to 4 are original defendant Nos. 1 to 4 whereas respondent Nos. 2 to 4 are original defendant Nos. 5 to 7. In short, respondent No.1 Sambhaji Ramji Patil was the exclusive plaintiff before the Trial Court. However, the appellants and the respondents shall be referred to by their original nomenclature, in the instant appeal, for ready reference.

3. Briefly stated case of the plaintiff, is that he has purchased suit land of 25-R from Block No.2 situated at

Village Panbhosi, Tq.Kandhar, Dist.Nanded from Gangabai W/o. Pandurang Sonwane on 27.06.2000 for a consideration of Rs. 21,000/- under registered sale deed No. 808/2000 and since then he is enjoying possession of the suit land. Defendant No.1 is the son of Gangabai. He is also signatory to the registered sale-deed. However, he has mutated the land standing in the name of his mother in his own name and threatened the ownership and the possession of the plaintiff over the suit land. He has also started laying plots and selling the same. In this background, the plaintiff had filed suit for declaration and perpetual injunction.

4. The defendants resisted the suit claim by **Written Statement Exh.22** dated 24.03.2008. They have denied the ownership and possession of the plaintiff over the suit land. They have contended that, defendant No.1 has become the owner of the suit land by virtue of a partition deed. The plaintiff is the signatory to the said partition deed. They have further contended that, Gangabai was the owner of suit land of 25-R + 85-R from Block No.2 +49-R from block No.5 + 23-R from block No.192 situated at Village Panbhosi. She has partitioned the above lands by a registered partition deed No.954/2000 on 16.08.2000 in favour of her two sons including the defendant No.1, therefore, defendant No.1 is in possession of the suit land. They have further contended that, Gangabai had borrowed Rs.10,000/- from the plaintiff as a hand-loan. There was no sale transaction of the suit land effected between Gangabai and the plaintiff. In this

background, the defendants had prayed for dismissal of the suit.

5. The learned Judge of the Trial Court framed Issues vide **Exh.26**. Both parties adduced evidence. After hearing learned advocates appearing for the respective parties, the learned Judge of the Trial Court partly decreed the suit on **10.12.2018**. Being aggrieved thereby, the original defendant Nos. 1 to 4 - the appellants herein - are before me in the first appeal under Section 96 read with Order XLI of the Code of Civil Procedure, 1908.

6. The appellants have contended that the impugned judgment and decree are incorrect, illegal and erroneous because the learned Judge of the Trial Court has failed to appreciate the oral and documentary evidence adduced by the parties in proper perspective. Therefore, the impugned judgment and decree are bad in law.

7. In the light of the controversy between the parties, the following Points arise for my determination. My findings on those Points for the reasons to follow are under:-

SR.NO.	POINTS	FINDINGS
1)	Whether defendant No.1 has proved that sale-deed dated 27.06.2000 was a security to the hand-loan of Rs.10,000/- ?	No.
2)	Whether the impugned judgment and decree dated 10.12.2018	

	passed in RCS No.03/2008 call for interference?	No.
3)	What order?	Appeal is dismissed

REASONS

As To Point Nos. 1 and 2 :

8. Learned advocate for the appellants **Mr. K. S. Baig** placed his Written Notes of Arguments on record at **Exh.23.** According to the learned Advocate for the appellants, the learned Judge of the Trial Court ought to have recorded a finding that the suit land was allotted to defendant No.1 in partition. The learned Judge has erred in holding that the sale-deed executed in favour of the plaintiff was not a security to the hand-loan obtained by Gangabai. The Learned Judge has failed to appreciate that, the suit land was not an existence, therefore the suit was bad in law. He has also contended that, in RCS No.88/2013, the plaintiff had given different boundaries of the suit land. Thus, the sale-deed was a nominal sale-deed. In this background, he has prayed for setting aside the impugned judgment and decree.

9. **Per contra**, learned Advocate **Shri. A. G. Puranik** for the respondents submitted his written notes of arguments vide **Exh.20.** He has submitted that there is no reason to find fault with the impugned judgment and order. He has further submitted that defendant No.1 had failed to prove that, sale-

deed dated 27.06.2000 was a security to the hand-loan obtained by the his mother. He has further submitted that, the plaintiff had entered his name in revenue record vide mutation entry No.299 and since 27.06.2000, the plaintiff is enjoying the suit land. He has further submitted that, the appellants cannot be allowed to raise the ground of boundary description by laying hands on RCS No.88/2013 because this ground was not raised before the Trial Court. In this background, he has prayed for dismissal of the appeal with heavy costs.

10. I have carefully perused the judgment delivered by the learned Judge of the Trial Court. I have also carefully perused the record, but did not find any mention of RCS No.88/2013. Be that as it may. The appellants have filed certified copy of first page of plaint of RCS No.88/2013 and the evidence affidavit of Sayyad Jafar. The claim clause is in respect of 14-R land of the plaintiff. It is not in respect of 25-R land which is the subject matter of the present suit. Therefore, it will not be just and proper to rely upon the boundaries of 14-R land mentioned in the said suit to deny the existence of land of 25-R land which is the subject matter of sale-deed dated 27.06.2000 on the basis of which the plaintiff has claimed relief of ownership in this suit.

Validity of Sale Transaction dated 27.06.2000

11. The learned judge of the Trial Court had framed two pertinent issues namely whether plaintiff had proved

that defendant No.1 has given consent by signing as witness on the sale-deed dated 27.06.2000 between plaintiff and mother of defendant No.1 and secondly, whether defendants had proved that the sale-deed executed by Gangabai in favour of the plaintiff was security of loan obtained by her from the plaintiff. The former issue was answered in the Affirmative and the latter issue was answered in the Negative. The core question before me is whether these findings are just and proper or they are perverse.

12. In Para 11 of the judgment, the learned judge has observed that, defendant No.1 has admitted in his cross-examination that, he had signed as a witness on a sale-deed after reading the sale-deed. Therefore, it was held that defendant No.1 had given consent for signing on the sale-deed dated 27.06.2000.

13. In Para 15 of the judgment, the learned judge has observed that there was nothing on record to show that the sale-deed was executed as a security for the loan obtained by Gangabai from the plaintiff.

14. I have carefully perused the evidence of defendant No.1 which is at Exh.59. In his cross-examination, defendant No.1 has admitted that his mother had executed a sale-deed (Bainama) of 25-R land and on the basis of said sale-deed, mutation entry was taken in the name of the plaintiff. Defendant No.1 has admitted that, he has signed said sale-deed as a witness thereof.

15. There is nothing on record to show that defendant No.1 was forced to sign the sale-deed executed in favour of the plaintiff. Furthermore, it is worth to note that the sale-deed in question was executed on 27.06.2000 and since then the defendant No.1 had not raised any grievance that, his signature was obtained without his consent.

16. So far as regards, the defence put forth by the defendants that, the sale-deed in question was a security to the hand-loan of Rs.10,000/- is concerned, it may be noted that, the learned judge has rightly observed that, there was no evidence adduced by the defendants to show that the sale-deed was a nominal one. Had the said sale-deed been nominal one then defendant No.1 would not have allowed the plaintiff to mutate his name to the suit land. There is nothing on record to show that, the mutation entry in favour of the plaintiff was ever questioned by the defendants. In addition, it may be further noted that, that the plaintiff has adduced adequate oral and the documentary evidence to show that, he was the owner of 25-R land on the basis of sale-deed dated 27.06.2000. In this view of the matter, it is held that the defendants have failed to prove that the sale-deed in question was a nominal sale-deed. It is further held that, there is no reason to interfere with the impugned judgment and decree. **Hence, Point Nos. 1 and 2 are answered in the Negative.**

As To Point No. 3 :

17. It has been noticed that, there was no reason to interfere with the impugned judgment and decree since the appellants have failed to show as to how the said judgment and decree are bad in law. In this view of the matter, in answer to Point No. 3, the following order is passed :-

ORDER

- (1) RCA No.18/2020 is **dismissed** with costs.
- (2) Judgment and decree passed in RCS No.03/2008 on 10.12.2018 by learned Civil Judge Sr. Division, Kandhar is upheld.
- (3) R and P of RCS No.03/2008 be sent to the Court of Learned Civil Judge Sr. Division, Kandhar, Dist. Nanded.
- (4) Decree be drawn accordingly.

Date:- 10.06.2026

(B. U. Choudhari)
Ad-hoc District Judge-2,
Kandhar

CERTIFICATE

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

Name of Stenographer	:-	Mrs J P Ghogare, Steno (Grade-III),
Court name	:-	Court of Ad-hoc District Judge-2 & Asst. Sessions Judge, Kandhar.
Date	:-	10.06.2026
Judgment signed by Presiding officer on	:-	10.06.2026
Judgment uploaded on	:-	10.06.2026