

MHNG100012202022



Received on : 18/07/2022  
Registered on : 18/07/2022  
Decided on : 27/03/2026  
Duration : 3Y. 8M. 9D.

**IN THE COURT OF 2<sup>nd</sup> JOINT CIVIL JUDGE JUNIOR  
DIVISION, UMRED, DIST. NAGPUR**

**( Presided over by Ravi. S. Mankar)**

**Regular Civil Suit No.65/2022**

**Exh.No.45**

- 1] Lata Shrihari Balbudhe,  
Age- 51 Yrs. Occ.- Housewife.  
R/o. Motilal Nagar Bahadura,  
Nagpur.
  - 2] Manisha Rajkumar Kohapare,  
Age- 41 Yrs. Occ.- Housewife.  
R/o. Kalamna Road, behind D.Marsi Hotel,  
Kawarapeth Umred,  
Tq-Umred, Dist-Nagpur
- .....Plaintiff's**

**V e r s u s**

- 1] Pradip S/o. Vasantrao Tiwase,  
Age-45 Yrs. Occ.- Agriculturist,  
R/o.Old Shukrawari, Kunbi Pura,  
House No.1255 Nagpur-440009.
- .....Defendant**

**SUIT FOR DECLARATION, PARTITION AND SEPARATE  
POSSESSION.**

Shri.L.R.Mandaokar :- Learned advocate for plaintiffs.
Shri.G.R.Hunge :- Learned advocate for defendant.

**J U D G M E N T**  
**(Delivered on 27<sup>th</sup> March 2026)**

This is the suit filed by plaintiff for declaration, partition and separate possession in respect of suit property.

**Brief facts of the plaintiff's case:**

2] Admittedly plaintiffs and defendant are closed brother and sisters. It is the averment of the plaintiffs that their mother Kamalabai died on 17.04.2022 and their father also died on 16.07.2008. Deceased Kamalabai had received field property situated in P. H. No.19 bearing Gat No.25 admeasuring area 4.48 H. R. from her mother Chandrabai as more particularly comprised in the plaint. (hereinafter to avoid repetition the above field property called as suit property.)

3] It is further averred that, before marriage plaintiffs were residing along with their parents and after marriage both are residing at respective address as mentioned in title clause. As the mother of plaintiff was suffering from paralysis. She was admitted in medical college, Nagpur and then in Itkelwar hospital at Nagpur. Plaintiffs incurred all the medical expenses

of their mother. Whereas, defendant was addicted with liquor and having family dispute with his wife. Plaintiffs had good relation with their mother. The mother of plaintiff was unable to remind and recollect anything due to unconsciousness of her health. Thereafter, their mother died. Hence, plaintiffs and defendant became co-owner of the suit property and thereby, they are having 1/3 share in the suit property. When plaintiffs came to know that the defendant mutated his sole name in the revenue record of the suit property on the basis of illegal Will deed. Hence, plaintiffs raised objection before the Tahsildar. Indeed, the Will deed executed by the mother of defendant is illegal and bogus therefore, it having no value in the eye of law. Plaintiffs used to look after towards their mother. Therefore, she could not decide to execute Will deed in the sole name of defendant. Deceased Kamlabai was not acquainted with the contents of Will deed. Hence, said Will deed is not binding over the plaintiff. Hence, plaintiffs constrained to file present suit.

**Brief facts of the case of defendant:**

4] Defendant appeared and filed his written statement at (Exh.28). Wherein, he admitted relation with plaintiffs and contended that his mother Kamalabai was residing with him at Shukrawaripeth Kunbipura, Nagpur and she died on dated 17.04.2022. It is further contended that the

mother of Kamalabai namely Chandrabai had purchased suit property from Maroti Parasram Pal on dated 03.05.1966 for the consideration of Rs.501/-. Hence, this suit property was the self-acquired property of Chandrabai. The Chandrabai was died on 25.04.1990 and then, the name of the mother of plaintiff came to be entered in the revenue record as a sole successor of Chandrabai. Hence, Kamalabai was become the sole and absolute owner of the suit property and thereby, he having right to dispose of the suit property as per her own Will. In accordance with this right his mother Kamalabai executed registered Will deed of suit property on dated 27.10.2020 in the name of defendant. At the time of execution of Will deed mental and physical health of Kamalabai was in good condition. After the death of Kamalabai the name of defendant mutated in the revenue record of the suit property on the basis of Will deed and thereby, the defendant is the absolute owner of the suit property. Hence, he prayed to dismiss this suit.

5] My learned predecessor Shri. R. B. Dole on the basis of rival pleadings of the parties, framed issues in Marathi vide (Exh.26) which I reproduced here and recorded my findings along with reasons, stated below:

Sr. No.	ISSUES	FINDINGS
1.	Whether plaintiffs proves that defendant and plaintiffs have equal right and equal share in the suit property? (दाव्यातील शेतीमध्ये वादी व प्रतिवादी यांचा समान हक्क व अधिकार आहे, असे वादी सिध्द करतात काय?)	In Negative
2.	Whether plaintiffs proves that without knowing and imagine to deceased Kamalabai defendant executed false and bogus Will deed on dated 27.10.2020? (दि.२७.१०.२०२० रोजीचे मृत्युपत्र हे मयत कमलाबाई यांना माहिती व कल्पना नसतांना प्रतिवादी यांनी मृत्युपत्र हे खोटे व बनावट बनवुन घेतले असे वादी सिध्द करतात काय?)	In Negative
3.	Whether plaintiffs are entitled for declaration? (वादी हे जाहीर घोषणा होउन मिळण्यास पात्र आहे काय?)	In Negative
4.	Whether plaintiffs are entitled for share in suit property? If, yes then to what extent? (वादी यांचा मिळकतीमध्ये हिस्सा आहे काय? असल्यास किती?)	In Negative
5.	Whether suit is barred by law of limitation? (दाव्यास मुदतीच्या कायद्याची बाधा येते काय?)	In Negative
6.	Whether suit is barred by law? (दाव्यास कायद्याचा रोध आहे काय?)	In Negative
7.	What order and decree? (काय आदेश?)	As per final order

### R E A S O N S

6] In order to substantiate the claim, the plaintiff No.1 Lata Shrihari Balbudhe examined herself at (Exh.13) and

in support of oral evidence she relied upon documentary evidence as under;

- Exh.14** - Certified copy of 7/12 extract of Gat No.25.
- Exh.15** - True copy of Namuna 8A of Gat No.25.
- Exh.16** - True copy of 7/12 extract of Gat No.25.
- Exh.17** - True copy of Namuna 8A of Gat No.25 dated 11.07.2022.
- Exh.18** - True copy of mutation entry No.558.
- Exh.26** - Evidence close pursis.

7] On the other hand defendant Pradip Vasantryo Tiwase examined himself at (Exh.29). He examined attesting witness Shri. Shrawan Mahadeorao Hedao at (Exh.39). In support of oral evidence defendant relied upon documentary evidence as under;

- Exh.30** - Original sale deed dated 03.05.1966.
- Exh.31** - Certified copy of Adhikarabhilekh Panji.
- Exh.32** - True copy of 7/12 extract.
- Exh.33** - Certified copy of mutation entry.
- Exh.34** - True copy of Namuna 8A.
- Exh.35** - True copy of renumbering parcha.
- Exh.36** - Original death certificate of Kamalabai Vasantryo Tiwse.
- Exh.40** - Original Will deed.
- Exh.25** - True copy 7/12 extract of the suit property wherein,

name of the defendant is shown as a possessor.

**Exh.41** - Evidence close pursis.

**Disputed facts:-**

8] Plaintiffs averred that this suit property was owned by their mother Kamalabai. After the death of Kamalabai, the plaintiffs and defendant have become co-owner of the suit property. The Will deed executed on dated 27.10.2020 is itself illegal and bogus document. Therefore, the Will deed having no legal value and mutation entry taken on the basis of Will deed are itself illegal and not binding on the plaintiffs. Whereas, defendant contended that the suit property was the self-acquired property of deceased Kamalabai and she had sole right to dispose of the property as per her Will. Therefore, she has executed Will deed on dated 20.10.2020 in favour of defendant. Now, the defendant is sole owner of the suit property.

**Admitted facts:-**

9] The relationship between parties is the admitted fact. It is also admitted that the suit property was purchased by deceased Chandrabai who are the mother of Kamalabai. Plaintiff Lata in her cross-examination admitted that the suit property was the self-acquired property of deceased Kamalabai. She also admitted the signature, thumb impression

and photographs of Kamalabai upon the Will deed and photographs of attesting witness thereon.

**Argument of both sides:**

10] Learned advocate for the plaintiff submitted that, the suit property is the ancestral property of the plaintiffs and defendant. He further submitted that the mother of plaintiff was suffering from paralysis and thereby, she was unable to move from one place to another place and also unable to recollect anything. The defendant has executed false and bogus Will deed which was not acquainted by the Kamalabai. On the basis of said Will deed the name of defendant has been mutated in the revenue record of the suit property. However, plaintiffs being legal heirs of Kamalabai, both are entitled to get 1/3 share each in the suit property. The Will deed is false and bogus document, the plaintiffs has proved how the Will deed is illegal hence, submitted to grant reliefs as sought.

11] On the other hand, learned advocate for the defendant submitted that the plaintiff has admitted in her cross-examination that the suit property is the self-acquired property of deceased Kamalabai. Further, she admitted that the suit property was purchased by the Chandrabai in the year 1966 and after the death of Chandrabai, Kamalabai being her sole daughter, the suit property was inherited to her and it was

become her absolute property. Therefore, as per section 14 of Hindu Succession Act, the Kamalabai is absolute owner of the suit property and she has every right to alienate the suit property as per her own Will. Hence, submitted to dismiss the suit.

**As to Issue Nos.1 & 2:-**

**12]** In order to prove issue Nos.1 and 2 the claim, the plaintiff Lata entered into witness box and examined herself at (Exh.13) and reiterated contents of plaint. It came in her evidence that the suit property was received by her mother hence, after the death of her mother plaintiffs and defendant are entitled for 1/3 share in the suit property. She deposed that that since, 10 years her mother Kamalabai was suffering from paralysis and thereby, she was unable to recollect anything. Deceased Kamalabai never made any plan to execute Will deed and she never stated about the Will deed during the course of her lifetime. Hence, it itself cleared that the defendant has prepared false and bogus Will deed and on the basis of which he mutated his sole name in the revenue record of the suit property.

**13]** In support of oral testimony, she has filed 7/12 extract of the suit property at (Exh.14). I perused the 7/12 extract dated 04.04.2022. Wherein, name of the possessor is

shown as Kamalabai Vasant Tiwase. Then, plaintiffs filed Namuna 8A of the suit property at (Exh.15). Wherein also name of the Kamalabai Vasant Tiwase is shown as owner of the property. Then, plaintiff filed 7/12 extract of the suit property dated 11.07.2022 at (Exh.16). Wherein, name of the Kamalabai Vasant Tiwase is shown to be deleted with addition of the name defendant Pradip Vasantrao Tiwase as possessor of the suit property.

14] Then, plaintiffs filed Namuna 8A of the suit property dated 11.07.2022 at (Ex.17). I gone through it wherein, the name of defendant is shown as the possessor of the suit property. Then, plaintiffs filed certified copy of mutation entry No.558 at (Exh.18). I perused the mutation entry wherein, it is contended that as the Kamalabai Vasant Tiwase died on 17.04.2022. Hence, as per the registered Will deed bearing registration No.6366 dated 27.10.2020 the name of defendant has mutated in revenue record of the suit property. After going through aforesaid documents adduced by the plaintiffs it appears that initially name of the mother of plaintiffs was in the revenue record of the suit property. Thereafter, as per the mutation entry No. 558 (Exh.18) name of the defendant has been entered in the revenue record of the suit property by the concern authority. However, it came in the evidence of plaintiff that on the basis of which said mutation

entry was entered that Will deed is false and bogus document.

**15]** On the other hand, defendant, Pradip examined himself as a (DW-1) at (Exh-29). It came in his evidence that the suit property was initially purchased by his grandmother Chandrabai (Mother of Kamalabai) from Maroti Parasram Pal on dated 03.05.1966 by registered sale deed at (Exh.30). Therefore, suit property was the absolute property of Chandrabai. However, Chandrabai was died on 24.04.1990. Thereafter, Kamalabai Vasant Tiwase become the sole owner of suit property by way of succession. Hence, she had sole right to alienate the suit property. As such on 27.10.2020 she executed registered Will deed in favour of defendant and at that time mental and physical condition of Kamalabai was good.

**16]** It further came in his evidence that on 17.04.2022 Kamalabai Vasant Tiwase died. Therefore, his name entered in the revenue record and he became absolute owner of the suit property. In support of oral testimony, he produced original Will deed dated 27.10.2020 bearing registration No.6366/2020 which is marked at (Exh.40) in the evidence of Shri. Hedao (DW2). He also produced Adhikarabhilekh panji at (Exh.31), 7/12 extract, true copy of mutation entry, Namuna 8A and renumbering parcha of the suit property at

(Exh.31 to 35). After going through these documents, it appears that after the death of Kamalabai Vasant Tiwase name of the defendant has been enter in the revenue record of the suit property.

17] In cross-examination Pradip DW-1 admitted that at the time of execution of Will deed he was not present and he came to know about the Will deed after the death of his mother. Learned advocate for the plaintiffs put him question i.e. on the date of execution of Will deed as he was absent, he does not know anything about the mental and physical health of his mother? Whereupon he stated that on that date the mental and physical health of the deceased Kamalabai Vasant Tiwase was good. Thereafter, again learned advocate for plaintiffs put him question, i.e. how did he know that before going to the execution of Will deed his mother's mental and physical condition was sound? Upon which he answered that before going to the execution of Will deed his mother was present at his house. In cross-examination of defendant Pradip (DW-1), learned advocate of plaintiffs put him suggestion i.e. the defendant has executed false Will deed with intention that plaintiffs should not be get share in the suit property. However, he flatly denied suggestion put forth by the learned advocate for plaintiff.

18] In order to prove registered Will deed, defendant examined one attesting witness namely Shri. Hedao as (DW-2). It came in his evidence that the Kamalabai Vasant Tiwase had executed Will deed in favour of Pradeep Vasanta Tiwase. Then contents of Will deed had stated by the Kamalabai Vasant Tiwase to her advocate. As per the submission of Kamalabai Vasant Tiwase, Will deed got prepared and then, contents thereof were read over her, she admitted contents as true and correct. Same time Kamalabai Vasant Tiwase, he himself and one another person were present. Thereafter, Kamalabai Vasant Tiwase signed and gave her thumb impression over Will deed. Then, he himself also signed and gave his thumb impression over Will deed. When, in examination in chief said Will deed shown to him. He identified his signature and thumb impression and he also identified signature and thumb impression of Kamalabai Vasant Tiwase. He admitted contents of Will deed as true and correct and thereby, this Will deed has marked at (Exh.40).

19] In the evidence of plaintiff Lata, it has come on record that the deceased Kamalabai Vasant Tiwase was suffering from paralysis and thereby, she was unable to take decision and recollect anything. However, in cross-examination of Shri. Hedao (DW-2), he denied that at the time of execution of Will deed, Kamalabai Vasant Tiwase was suffering

from her mental and health problem. In cross-examination plaintiff Lata admitted that she had done medical expenditure of his mother. However, she further admitted that she has not produced medical documents on record to establish the facts that how she incurred medical expenses of the deceased Kamalabai Vasant Tiwase. She voluntarily deposed that these documents have been kept with her brother. However, from the record it reveals that she has not given any notice to the defendant for the production of these medical on record. On the contrary plaintiff in her cross-examination admitted that till the death of Kamalabai she was residing with defendant and he took her every care till her life time. Hence, it came on record that Kamalabai was residing with defendant and she was not residing with plaintiffs. Though plaintiff has deposed that her mother was suffering from paralysis and thereby she was unable to take decision. However, plaintiff has not produced any document on record to establish the facts that deceased Kamalabai was suffering from said disease.

20] Moreover, in cross-examination plaintiff Lata admitted that suit property was received by her mother from her father. However, in order to prove this fact, she has not produced any documents on record. Hence, it is concluded that these facts not proved by the plaintiff that how her mother inherited suit property from her father. Thereafter,

learned advocate for defendant put her question, i.e. whether suit property was initially owned by Maroti Pal? On which she answers in affirmative. She further admitted that Kamalabai Vasant Tiwase was the sole daughter of Chandrabai and after the death of Chandrabai suit property was inherited in the name of Kamalabai Vasant Tiwase. However, she denied that on 27.10.2020 Kamalabai Vasant Tiwase had executed Will deed in favour of defendant. When Will deed dated 27.10.2020 shown to her she admitted that sale deed has duly registered but, she voluntarily says that Will deed is false. Whereas, she admitted photographs, signature and thumb impression of her mother on the Will deed. So also, she admitted that photographs of attesting witness namely Shri. Suryawanshi and Shri. Hedao have been affixed over Will deed. Witness voluntarily says that she does not know the attesting witnesses.

**21]** It is the defense of the defendant Pradeep (DW-1) that the suit property is the self-acquired property of the Kamalabai Vasant Tiwase and thereby she has all right to alienate the suit property as per her own Will. Hence, she executed Will deed. In the cross-examination plaintiff Lata flatly admitted that the suit property was the self-acquired property of deceased Kamalabai Vasant Tiwase. But she denied that Kamalabai had executed said Will deed in favor of the

defendant.

22] Learned advocate for the plaintiff submitted that Will deed not duly proved as defendant has not examined other attesting witness. Hedao (DW-2) has not deposed that whether another attesting witness was present or not present at the time execution of Will deed. On this point he relied on following authorities of Hon'ble Supreme Court.

**(i) Lalitaben Jayantilal Popat Versus Pragnaben Jamnadas Katariya and others, AIR 2009 (Supreme Court) 1389.**  
Wherein, Hon'ble Court held that;

*"as per section 63(c) of succession Act when only on Will attesting witness examined who type will not known who scribed will also not known will produced from custody of one attesting witness how he came in custody of will not explain. He also stated that testator put signature in his presence, however, at that point of time other attesting witness had not put his signature. It has therefore not been proved that both attesting witnesses either attested will in presence of each other or testator had acknowledge his signature in presence of other witnesses' large number of suspicious circumstances held that execution of will deed is not proved".*

(ii) **Liliyan Coelho and others Vs. Myra Philomena Coelho,2025. MHLJ.(Supreme Court SC)33.** Wherein, Hon'ble Court held that;

*"will duly executed does not mean that Will was genuine. If, a will is found not validly executed, then, there will be not need to took in question whether, it is shrouded with suspicious circumstances even after holding that a will is genuine, it is within jurisdiction of the Court to hold that it is not worthy to act upon as being shrouded with suspicious circumstances when propounder held to remove such suspicious circumstances to this satisfaction of the Court."*

**23]** After going through above authorities, it appears that facts contended in the above authorities are distinct from the case in hand. In present case attesting witness shri Hedao (DW-2) deposed before the Court that deceased Kamalabai had stated contents of Will deed before him to the advocate. Then, Will deed was prepared and then Kamlabai signed before him and then he signed on Will deed. He identified his signature and thumb impression as well as signature and thumb impression of deceased Kamalabai over the said Will deed. He also deposed that another attesting witness Suryawanshi was present. Though he is not confirming with

his name, but after going through Will deed, it reveals that name of the second attesting witness is shown as Suryawanshi. As per section 68 of Indian Evidence Act provides that the propounder must prove execution and attention of Will by executing at least one of the attesting witnesses. In present case Will deed is duly proved by the defendant by examining one attesting witness as discussed supra. Hence, with due respect observation held by the Hon'ble Court in aforesaid authorities not applicable to the case of plaintiff.

**24]** It is further submitted by learned advocate for plaintiff that in cross-examination Mr. Hedao (DW-2) admitted that Will deed was executed on stamp paper of Rs.100/-. But, Will deed (Exh.40) has not been executed on the stamp paper of Rs.100/-. Hence, suspicious grounds has been come on record which reflects illegality of Will deed. On this point he relied on the following authorities:

**(i) Janki Narayan Bhojar Versus Narayan Namdeo Kadam, AIR 2003 (Supreme Court)761.** Wherein, Hon'ble Court held that;

*"Simply proving that signature on will was that of testator not enough requirements of its attention by two or more witnesses, is mandatory attestation must be proved to have been may as required by section 63(6) of*

*succession Act. One attesting witness is able to prove execution i.e. if satisfies requirement of attestation of will by other witnesses examination of other attesting witnesses can be dispense with."*

**(ii) Ashok Kashinath Deshmukh Versus Gopala Kashinath Deshmukh first appeal No.137 of 2005 decided on 04.10.2007 (Hon'ble Bombay High Court Bench at Nagpur). Wherein, Hon'ble Court held that;**

*"The Court must be satisfied not only regarding the due execution of the Will deed and appropriate attestation thereof, bur regarding existence of pre-voliation of the execution and real intention to bequeath the property mentioned in the Will deed"*

**25]** On the other hand, Learned advocate for defendant on same point submitted that Hedao (DW-2) has rightly admitted that the Will deed has been executed on the stamp paper of Rs.100/-. Because, stamp paper of Rs.100/- attached with the Will deed and thereby, the attesting witness is deposing that the Will deed has been executed on the stamp of Rs.100/-. After going through Will deed (Exh.40) and submission of both sides it reveals that the attesting witnesses has identified the signature, thumb impression and

photographs of Kamalabai Vasant Tiwase. He also identified his signature, thumb impression and photographs. Thereafter, he also identified the signatures of another attesting witnesses namely Suryawanshi. He admitted the contents of Will deed which was executed before him. Moreover, when said Will deed was referred to plaintiff Lata in her cross-examination, she identified signature and photographs of Kamalabai over the Will and also identified photographs of attesting witnesses. But thereafter, she voluntarily says that she does not know to the attesting witnesses. It also reveals that said Will deed is affixed with Chalan MTR Form Number-6 of Rs. 100/-. It means it concluded that said chalan is the part and parcel of the said Will deed. Hence, I do not find substance in the submission of learned advocate for the plaintiff. After going through authorities referred by learned advocate for plaintiffs contended different facts which are not identical with the present case. Hence, observation held by the Hon'ble Court in the afore said authorities with due respect not applicable to the case of plaintiffs.

**26]** Admittedly suit property was purchased by the Chandrabai, who was the mother of Kamalabai Vasant Tiwase. After the death of Chandrabai suit property was inherited to the Kamalabai Vasant Tiwase. On this point learned advocate for defendant submitted that, as per Section 14 of the Hindu

Succession Act Kamalabai Vasant Tiwase become the absolute owner of the suit property and thereby, she has absolute right to disposed of the suit property as per her own Will. On this point he relied on the authority of **Hon'ble Supreme Court in Marabasappa Versus Ningappa Civil Appeal No.3495 of 2001**. I gone through authority wherein Hon'ble Court held that;

*"Any property of female Hindu is her absolute property and she has full ownership thereof as a consequence, she may dispose of the same as per her wish and the same cannot be treated as a part of the Joint Hindu Family property."*

**27]** For more clarification I gone through section 14 of the Hindu Succession Act. Section 14(1) establishes that any property possessed by a female Hindu, whether acquired before or after the commencement of the Act, shall be held by her as full owner and not as a limited owner. This includes property obtained through inheritance, partition, maintenance, gift, purchase or by her own skill or exertion, and also property held as stridhana before the Act came into force. The provision empowers women to sell, mortgage, or transfer property independently, abolishing the limited estate concept that previously restricted their rights. Plaintiff in cross-examination admitted that suit property was the self-

acquired property of the Kamlabai. Learned advocate for the defendant put her suggestion that as the suit property being self-acquired property, she herself and plaintiff No.2 having no right and share in the suit property but she denied this suggestion. Therefore, it reveals that suit property was absolutely owned by deceased Kamalabai and she had right disposed of same as per own wish. Hence, it reveals that observation held by the Hon'ble Court in the authority referred by learned advocate for defendant is squarely applicable to the case in hand.

**28]** As discussed supra defendant has duly proved that suit property was absolute property of deceased Kamlabai and she executed said Will deed in favor defendant. Defendant also proved Will deed by adducing cogent and reliable evidence on record. Whereas, plaintiffs miserably failed to prove that the Will deed executed on dated 27.10.2020 is false and bogus and prepared without the knowledge of deceased Kamalabai Vasant Tiwase beyond preponderance of probability as discussed supra. Consequently, it concluded that the plaintiffs having no equal right and equal share in the suit property as the deceased Kamalabai Vasant Tiwase being absolute owner of the suit property has already executed the registered Will deed in favour of defendant. Therefore, in view of entire discussion made herein above I answer to issue Nos.1 and 2 in

Negative.

**As to Issue Nos.3 & 4:-**

29] As I already hold that the plaintiffs have not proved that the Will deed executed on dated 27.10.2020 is illegal, false and executed without the knowledge of deceased Kamalabai Vasant Tiwase. On the contrary defendant proved beyond preponderance of probability their defense that the deceased Kamalabai Vasant Tiwase being absolute owner of the suit property executed registered sale deed in favour of defendant. Hence, plaintiffs are not entitled for declaration as sought and equal share in the suit property. Hence, I answer to issue Nos.3 and 4 in Negative.

**As to Issue Nos.5 & 6:-**

30] After going through the record of the case it appears that the suit is not barred by law of limitation as the suit is filed within stipulated time. Hence, I answer to issue Nos.5 and 6 in Negative.

**As to Issue No.7:-**

31] I already answer issue Nos. 1 to 6 in Negative. It is the settled principle of law that the successful party is entitled for cost. However, in present case in hand plaintiffs and defendant are close brother and sisters. Therefore, in my

opinion it would be justifiable to direct both parties to bear their own costs. Hence, to answer issue No.7 I pass following order.

**ORDER**

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

**(Judgment dictated and pronounced in open Court.)**

(R.S. Mankar)  
2<sup>nd</sup> Jt. Civil Judge Jr. Division  
Umred

Date :- 27/03/2026

**CERTIFICATE**

I affirm that the contents of this P. D.F. file Judgment/ Order are same word to word as per the original order.

Name of Court	:-	Jt. Civil Judge (Jr.Dn.) and J.M.F.C., Umred, Dist. Nagpur.
Presiding Officer	:-	R. S. Mankar
Judgment uploaded by	:-	S.B.Ghardinkar(Stenographer L.G.)
Date of Judgment/Order	:-	27.03.2026
Judgment/Order signed by the presiding officer on	:-	01.04.2026
Uploaded on dated	:-	01.04.2026