

CNR No.MHNG130009622023



Filed on : 06.06.2018
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 07 11 07

IN THE COURT OF CIVIL JUDGE SENIOR DIVISION, RAMTEK.
 (Presided over by Shri. S.M. Sarode)

Special Civil Suit No. 78/2023
 (Old Spl. No. 399/2018)

Exhibit No. 75

Ravindra s/o Kisanlal Jaiswal,
 Aged 59 years, Occu.: Retired,
 R/o. 4th Floor, Vishal Apartment,
 Ajni Chowk, Nagpur.

.. Plaintiff

.. Versus...

- 01] Smt. Suman wd/o Prabhu Lanjewar,
 Aged about 50 years, Occ-Agriculturist,
 R/o Mukkam Post Mukewadi,
 Tahsil-Ramtek, District-Nagpur.
- 02] Sau. Lilabai @ Shewantabai Shukhdeo Bhave,
 Aged about 45 years, Occu. Agriculturist,
 R/o Fulchur (Gondia), Tahsil-Gondia,
 District-Gondia.
- 03] Smt. Savita w/o Mahesh Thakare,
 Aged about 43 years, Occ.-Agriculturist,
 R/o Parseoni, Tahsil-Parseoni,
 District-Nagpur.

.. Defendants

 Ld. Advocate Shri. A. M. Deole, S.A.Deole and M.A.Gupta for the Plaintiff,
 Ld. Advocate Shri.V. R.Borkar and R.K.Borkar for the Defendant No.2,
 Ld. Advocate Shri.S. R. Chakrawarti for the defendant No.3.
 Matter proceeded Ex-parte against defendant no.1

J U D G M E N T

(Delivered on this 13th day of May, 2026)

This is a suit for declaration, perpetual injunction, damages and cancellation of sale-deed filed by plaintiff.

02. In short, the plaintiff's case is that;

The plaintiff, a retired Air Force personnel, asserts his lawful entitlement over the suit property as the legal heir and karta of his family, deriving title through Late Smt. Ranjana Ravindra Jaiswal, who was wife of the plaintiff. It is contended that the suit property comprises agricultural land bearing Survey No. 123/1 (new) corresponding to 226 (old), admeasuring 1.01 hectare, situated at Mouza Salai, Tahsil Parseoni, District Nagpur. The said property was originally purchased under a registered sale deed dated 24/05/1990, and since then, the plaintiff and his predecessor-in-title have remained in possession thereof.

03. The plaintiff submits that the original owners, namely Late Shri Prabhu S/o Bala Lanjewar, Late Smt. Shakubai W/o Bala Lanjewar, and Sau. Lilabai @ Shewantabai W/o Shukhdeo Bhave (defendant No.2), had executed the said sale deed in favour of Late Smt. Ranjana Ravindra Jaiswal after receiving full consideration. Pursuant thereto, possession of the suit property was delivered, and the plaintiff's family continued in actual, peaceful, and uninterrupted possession, cultivating crops and exercising all rights of ownership without interference.

04. It is further case of the plaintiff that, in the year 2006, defendant No.2, in collusion with defendant No.3, fraudulently and dishonestly executed another sale deed bearing No. 1998/2006 dated 19/12/2006 in respect of the very same property, without the knowledge or consent of the

plaintiff or his predecessor. The plaintiff remained unaware of the said transaction due to his service obligations and circumstances prevailing at the relevant time, and continued to possess and enjoy the property as its lawful owner.

05. The plaintiff further submits that in April 2018, upon initiating mutation proceedings, he discovered that the name of defendant No.3 had been entered in the revenue records. Upon conducting a search in the office of the Sub-Registrar, Parseoni, the plaintiff obtained a certified copy of the impugned sale deed and came to know of the fraudulent transaction. It is specifically alleged that the said sale deed is void ab initio, being executed in contravention of the earlier registered sale deed of 1990 and in violation of the provisions of the Registration Act, 1908, and therefore does not confer any right, title, or interest upon defendant No.3.

06. The plaintiff further avers that in May 2018, defendant No.3, along with anti-social elements, attempted to forcibly dispossess the plaintiff from the suit property, threatened him with dire consequences, and tried to interfere with his peaceful possession. Despite reporting the matter to the police authorities, no effective action was taken, thereby compelling the plaintiff to approach this Court.

07. In the aforesaid circumstances, the plaintiff seeks a declaration that the sale deed dated 19/12/2006 bearing No. 1998/2006 executed in favour of defendant No.3 is null and void and not binding upon him. Consequential relief of cancellation of the said sale deed, correction of revenue entries, and grant of perpetual and prohibitory injunction restraining the defendants from interfering with the plaintiff's possession or creating third-party rights in respect of the suit property, along with damages, is prayed for in the interest of justice.

08. On the other hand, matter has been proceeded ex-parte against defendant no.1.

09. Whereas, defendant No.3, by way of written statement (Exh.23), raised preliminary objections regarding maintainability of the suit contending that the claim of the plaintiff is barred by limitation Act. It is further contended that the suit suffers from non-joinder of necessary parties under Order I Rule 9 of the Code of Civil Procedure and, therefore, the same is liable to be dismissed. Defendant No.3 also disputed the locus of the plaintiff to institute the present proceedings, contending that no authority or permission had been obtained from the legal heirs of the original owner for filing of the suit.

10. Defendant No.3 has specifically asserted that the sale deed dated 19.12.2006 executed in favour of defendant No.3 was legal, valid and binding. It is contended that the said transaction was executed after receipt of full consideration and with due consent of the concerned parties. The defendant further pleaded that defendant No.3 had lawfully purchased the agricultural land from defendant No.2 and Shakubai and, pursuant thereto, her name came to be mutated in the revenue record. It is further contended that the plaintiff was never in exclusive possession of the suit property and that defendant No.3 has remained in possession continuously. On the aforesaid grounds, defendant No.3 contended that the plaintiff has no right, title or interest in the suit property and therefore prayed that the suit, being barred by limitation, defective for non-joinder of parties and devoid of merit, be dismissed with costs.

11. Whereas, defendant no.2 has filed her written statement at Exh.14. The defendants, by way of special pleadings, contended that late

Bala Lanjewar was the original owner and possessor of the suit property and, after his demise in the year 1973, the names of his legal heirs, namely defendant No.2, Prabhu Lanjewar and widow Shakubai, came to be recorded in the revenue record. It is their specific case that defendant No.2, after the death of her husband Sukhdev Bhave in the year 1986, was appointed on compassionate grounds in MSEB Department and was financially sound, thereby having no necessity to alienate the suit property. The defendants have categorically denied execution of the alleged registered sale deed dated 24.05.1990 in favour of the plaintiff and alleged that the same is a forged and fabricated document brought into existence by impersonation. According to them, the suit land is ancestral property and, therefore, defendant No.2 alone had no authority to transfer the same without consent of the other co-owners and without legal necessity. It is further contended that the plaintiff deliberately omitted to implead Sachin, the son and legal heir of deceased Prabhu Lanjewar, and that the plaintiff never sought mutation of his name for nearly twenty-eight years, which creates serious doubt regarding the genuineness of the alleged sale transaction.

12. The defendant has further denied the plaintiff's claim of continuous possession and cultivation over the suit property since the year 2006 and specifically disputed the allegations that the plaintiff or late Ranjana Jaiswal had been cultivating crops over the suit land. According to the defendant the plaintiff was never in possession of the suit property and prayed for dismissal of the suit.

13. Heard learned advocates of plaintiff and defendants. Following issues have been framed below Exh.31 by my learned predecessor. I have recorded my findings along with reasons in respect of each issue as follows :

<u>ISSUES</u>		<u>FINDINGS</u>
1.	Does the plaintiff prove that, his deceased wife was the owner and possessor of the suit land as per the sale-deed dated 24/05/1990?	In the affirmative
2.	Does the plaintiff prove that, he is in possession of the suit land?	In the affirmative
3.	Does the defendant No.2 prove that, the sale deed dated 24/05/1990 was executed by fraud and impersonation?	In the negative
4.	Does the defendant no.3 prove that, she is the owner and possessor of the suit land as per the sale-deed dated 19/12/2006?	In the negative
5.	Does the defendant No.3 prove that, the suit is barred by limitation Act, 1963?	In the negative
6.	Does the defendant No.3 prove that, the suit is bad for non-joinder of necessary party (the legal heirs of the deceased wife of the plaintiff) under Order-1 Rule-9 of the Code of Civil Procedure?	In the negative
7a.	Does the plaintiff prove that, the sale-deed dated 19/12/2006 is not binding on him?	In the affirmative
7b.	Is he entitled for a declaration accordingly?	In the affirmative
7c.	Is he entitled for cancellation of it?	In the affirmative
8.	Is the plaintiff entitled for declaration that the defendants have no right to interfere in his possession over the suit land?	In the affirmative
9.	Is the plaintiff entitled for injunction restraining the defendants from creating interest in the suit land?	In the affirmative for the protection of possession.
10.a	Does the plaintiff prove that, he has suffered loss?	In the affirmative
10.b	Is he entitled for compensation towards it from the defendants?	In the affirmative

10.c	If yes, at what quantum?	Rs.10,000/-
11.	What order and decree ?	Suit is decreed with costs.

REASONS

14. In order to substantiate his case, the plaintiff entered the witness box and examined himself as PW-1 at Exh.34. The plaintiff further examined one witness namely Ejaz Salim Khan as PW-2 at Exh.60 and also examined the attesting witness to the sale deed dated 24/05/1990, namely Prabir Prafulla Dey, as PW-3 at Exh.64. Thereafter, the plaintiff closed his evidence by filing pursis at Exh.66.

15. The plaintiff has also produced and relied upon documentary evidence comprising the original sale deed dated 20/05/1990 at Exh.42, 7/12 extract pertaining to Survey No.122 at Exh.43, 7/12 extract pertaining to Survey No.123/1 at Exh.44, block map at Exh.45, extracts of Form 8A at Exhs.46 and 47, fragmentation form at Exh.48, receipt of lis pendens at Exh.49, certified copy of sale deed dated 03/03/1990 at Exh.52, certified copy of sale deed dated 03/03/1990 at Exh.53 and certified copy of sale deed dated 19/12/2006 at Exh.54.

16. On the contrary, defendant No.2 examined herself as DW-1 at Exh.67. Thereafter, defendant No.1 closed her evidence by filing pursis at Exh.68. Defendant No.3 examined herself as DW-2 at Exh.70 and subsequently closed her evidence by filing pursis at Exh.71.

As to Issue Nos.1 to 4 :-

17. Since all these issues are interconnected and arise out of the same set of facts, they are conveniently taken up together for the purpose of common discussion and adjudication.

18. It is a settled principle of law that the plaintiff must succeed on the strength of his own case and cannot derive any advantage from the weakness, if any, in the defence raised by the defendants.

19. The case of the plaintiff is that the suit property was owned and possessed by his wife namely Ranjana. On the other hand, the defence of defendant Nos.2 and 3 is that defendant No.3 is the lawful owner and possessor of the suit property.

20. In the backdrop of the rival pleadings and competing claims of the parties, the documentary evidence assumes considerable significance and therefore deserves careful scrutiny and appreciation.

21. The plaintiff has deposed in consonance with his pleadings and nothing material has been elicited in his cross-examination so as to probalilise or support the defence put forth by the defendants.

22. The sale deeds dated 24/05/1990 and 19/12/2006 are produced on record at Exhs.42 and 54 respectively. Upon perusal of the original sale deed of the wife of the plaintiff at Exh.42, it clearly transpires that the suit property came to be sold by defendant No.2 along with her mother and brother in favour of the plaintiff's wife under a registered sale deed bearing No.265/1990 dated 24/05/1990.

23. At this juncture, it is apposite to note that a registered sale deed carries with it a statutory presumption of genuineness and due execution unless the contrary is satisfactorily established. In this regard, reliance can profitably be placed upon the ratio laid down in the case of *Hemlata by LRs. Vs. Tukaram by LRs. and others*, 2026 LiveLaw (SC) 79, wherein the Hon'ble Supreme Court has held that a registered sale deed carries a presumption of validity and genuineness and that registration is a solemn act imparting

sanctity to the document. The Court ought not to lightly or casually treat such a document as sham or fabricated. The burden to rebut such presumption heavily lies upon the party challenging the document.

24. It is further pertinent to note that in view of Sections 91 and 92 of the Indian Evidence Act, where the terms of a written and registered document are clear and unambiguous, extrinsic evidence to ascertain the intention of the parties is generally inadmissible. However, oral evidence may nevertheless be admissible to establish that the document is sham, nominal or brought into existence under suspicious circumstances, provided there is cogent and convincing evidence to that effect.

25. In light of the aforesaid legal position, the contention raised by the defendants that the sale deed is sham and executed by way of impersonation requires close examination. In this regard, it is significant to note that apart from producing the original sale deed, the plaintiff has also examined the attesting witness thereto, namely Prabir Prafulla Dey (PW-3), who has categorically deposed that the sale deed dated 24/05/1990 (Exh.42) was executed in his presence and that he had signed the same as an attesting witness. Despite detailed cross-examination, the witness remained steadfast and denied the suggestion that the sale deed was fabricated or that the signatures appearing thereon were not genuine.

26. Besides the attesting witness, the plaintiff has examined another witness namely Ejaz Salim Khan (PW-2), who has supported the case of the plaintiff and deposed that he along with the wife of the plaintiff had jointly purchased one property bearing Survey No.122 situated in the same village. The said witness has further stated that the wife of the plaintiff had separately purchased property bearing Survey No.123/1. Nothing substantial could be elicited in the cross-examination of the said witness so as to

discredit his testimony or support the defence case.

27. Thus, the oral as well as documentary evidence adduced by the plaintiff has remained substantially unshaken and unrebutted by the defendants.

28. It is also material to note that under the sale deed dated 03/03/1990 bearing No.105/1990 (Exh.52), the wife of the plaintiff and PW-2 Ejaz Salim Khan had jointly purchased property bearing Survey No.223.

29. Furthermore, it is revealed from the sale deed dated 03/03/1990 bearing No.106/1990 (Exh.53) that the husband and brother of defendant No.2 namely Prabhu Langewar had sold a portion out of Survey No.226 to PW-2 Ejaz Salim Khan. Significantly, while describing the boundaries of the said property, the name of the plaintiff's wife namely Ranjana Jaiswal has been shown on the western side. This circumstance unmistakably demonstrates that the family members of defendant Nos.1 and 2 were fully aware that the plaintiff's wife was the adjoining land holder. In view of this material circumstance, the plea that the sale deed dated 24/05/1990 was brought into existence by impersonation or fabrication appears highly improbable and unacceptable.

30. It is equally significant to note that the sale deed dated 24/05/1990 (Exh.42) bears the signatures of defendant No.2, her brother Prabhu and her mother Sakhubai. However, the defendants have failed to examine any handwriting expert to establish that the signatures appearing on the said sale deed are not those of the family members of defendant Nos.1 and 2 or that the signature of defendant No.2, who is alive, is forged or fabricated. Such omission warrants drawing of an adverse inference against defendant Nos.1 and 2.

31. Consequently, I hold that the defendants have utterly failed to adduce any cogent or convincing evidence to establish that the sale deed dated 24/05/1990 is sham, fabricated or invalid.

32. It is a settled proposition of law that entries in the 7/12 extract are not documents of title and are maintained primarily for fiscal purposes. Therefore, merely because the name of the wife of the plaintiff does not appear in the 7/12 extract of the suit property, it cannot be inferred that she was not the owner thereof.

33. It is further noteworthy that the sale deed executed in favour of defendant No.3 dated 19/12/2006 (Exh.54) is admittedly a subsequent document. The same was executed by executants namely Sakhubai and defendant No.2 at a point of time when they had already divested themselves of their rights, title and interest in the suit property by executing the earlier sale deed in favour of the wife of the plaintiff in the year 1990. Therefore, in view of Section 48 of the Transfer of Property Act, 1882, defendant No.3 cannot claim any superior right, as the rights created earlier in point of time would prevail over the subsequent rights. In other words, the principle "first in time, stronger in law" squarely applies. Accordingly, I hold that the wife of the plaintiff is the lawful owner of the suit property.

34. Insofar as possession of the suit property is concerned, the recitals contained in the sale deed dated 24/05/1990 clearly indicate that possession of the suit property was delivered to the wife of the plaintiff at the time of execution itself. There is no evidence on record to establish that the wife of the plaintiff was ever dispossessed from the suit property. Hence, it stands proved that after the demise of his wife, the plaintiff continued to remain in possession of the suit property.

35. Defendant No.3 has claimed possession over the suit property; however, she has failed to produce any cogent or satisfactory evidence in support of such claim. Defendant No.3 has also failed to examine any adjoining land holder to establish her possession over the suit property. On the contrary, it has emerged in the cross-examination of defendant No.2 namely Shevantabai that she herself is unaware as to who is presently in possession of the suit property. This admission itself probabilises the case that defendant No.3 is not in actual possession of the suit property. It is also pertinent to note that despite execution of the sale deed, the previous vendors have not supported the possession of defendant No.3 over the suit property. Moreover, defendant No.3 has neither filed any counter-claim asserting her ownership rights nor challenged the sale deed in favour of the plaintiff. In absence of such substantive challenge, the defence raised by defendant No.3 appears to be a mere bald plea. Despite having knowledge of the sale deed of the plaintiff, defendant No.3 has also not raised a plea of adverse possession, though such plea is otherwise available under law in appropriate circumstances.

36. In view of the aforesaid oral and documentary evidence, I arrive at the conclusion that the wife of the plaintiff was the lawful owner and possessor of the suit property on the basis of the sale deed dated 24/05/1990. Accordingly, Issue Nos.1 and 2 are answered in the affirmative whereas Issue Nos.3 and 4 are answered in the negative.

As to Issue Nos.5 and 6 :-

37. As per Article 59 of the Limitation Act, 1963, a suit seeking cancellation of an instrument is required to be instituted within three years from the date of knowledge. The plaintiff has specifically deposed that he came to know about the sale deed executed in favour of defendant No.3 only

in the month of April, 2018 when he visited the office of the Talathi for mutation of names. In view of the said evidence, I hold that the present suit has been instituted within the prescribed period of limitation reckoned from the date of knowledge.

38. It is further pertinent to note that the sale deed executed in favour of defendant No.3 is itself void and non est in the eyes of law. Such a void document need not necessarily be set aside, as it does not create any lawful rights. Therefore, in my considered opinion, the present suit is not barred by limitation.

39. The defendants have contended that all the legal heirs of the deceased wife of the plaintiff have not been joined as parties to the suit and therefore the plaintiff alone is not entitled to maintain the suit for declaration and cancellation of the sale deed. However, from the pleadings and evidence on record, it is evident that the plaintiff is the karta of the family. Consequently, being the karta, the plaintiff is competent to institute and prosecute the present suit for declaration, cancellation of sale deed and other consequential reliefs. Hence, Issue Nos.5 and 6 are answered in the negative.

As to Issue Nos.7A, 7B and 7C :-

40. Since all these issues are interlinked and overlap with one another, they are taken up together for the purpose of common adjudication.

41. In view of the findings recorded on Issue Nos.1 to 4, the plaintiff is entitled to the relief of declaration that the sale deed dated 19/12/2006 is illegal, void and not binding upon him and is consequently liable to be cancelled. Accordingly, Issue Nos.7A, 7B and 7C are answered in the affirmative.

As to Issue Nos.8 and 9 :-

42. Both these issues being interconnected are taken up together for common discussion and determination.

43. In view of my findings on Issue Nos.1 to 7, the plaintiff is entitled to protection of his possession over the suit property and is also entitled to declaration that the defendants have no manner of right, title or interest therein. Accordingly, Issue Nos.8 and 9 are answered in the affirmative.

As to Issue Nos.10A, 10B and 10C :-

44. All these issues are interconnected and therefore require to be decided together.

45. In view of the findings recorded on Issue Nos.1 to 9, it stands established that the wife of the plaintiff was the original owner of the suit property and that the subsequent sale deed dated 19/12/2006 executed by defendant No.2 and her mother is invalid and ineffective in law. By executing such a document, unnecessary harassment and hardship have been caused to the plaintiff. Hence, the plaintiff is entitled to compensation of Rs.10,000/- from defendant No.2. Accordingly, all these issues are answered in the affirmative.

As to Issue No.11 :-

46. In view of my findings on Issue Nos.1 to 10, the suit deserves to be decreed with costs. Hence, the following order is passed :-

ORDER

1. The suit is hereby decreed with costs.

2. It is hereby declared that the sale deed dated 19/12/2006 bearing Registration No.1998/2006 is null, void and stands cancelled.
3. It is hereby declared that defendant Nos.1 to 3 have no right, title or interest in the suit property.
4. The concerned Sub-Registrar shall be informed regarding cancellation of the sale deed dated 19/12/2006 bearing Registration No.1998/2006 and is further directed to make necessary entries regarding cancellation of the said sale deed in the relevant register maintained in his office.
5. Defendant Nos.1 to 3, their agents, servants, representatives or any person claiming through or under them are hereby permanently restrained from causing obstruction to the possession of the plaintiff over the suit property bearing Survey No.123/1 corresponding to Survey No.226 admeasuring 1.1 HR situated at village Salai, Tahsil Parseoni, District Nagpur.
6. Defendant No.2 is directed to pay compensation of Rs.10,000/- to the plaintiff within a period of two months from the date of this judgment and order.
7. Decree be drawn accordingly.

Place : Nagpur
Date :13/05/2026.

(S.M. Sarode)
Civil Judge Senior Division,
Ramtek

Endorsement

Case argued on	:	13.05.2026
Judgment dictated on	:	13.05.2026
Transcription ready on	:	13.05.2026
Judgment checked and signed on	:	13.05.2026

CERTIFICATE

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

Name of Stenographer : R. J. Khobragade
Stenographer(Grade II)