

MHNS280014902023



**ORDER BELOW EXH.124 IN RCS 162/2023**  
**(Kaushabai Tupe Vs. Shankar Tambe)**

1. This is an application filed by defendants no.1 and 2 for seeking relief to take the judicial note of the certain fact as per provisions of Bharatiya Sakshya Adhinyam.

2. It has been contended that, as per application filed at Exh.93 defendant no.3 has appointed new advocate. The court has called the say of other side i.e. plaintiffs on the application filed at Exh.78. However, the copy of said application has been received by advocate of defendant no.3 for plaintiffs. Even though there is no endorsement from the side of plaintiffs as to whether they have received the copy of said application, they have filed their say on it. The instant suit is filed by defendant no.3 in collusion with plaintiffs and defendant no.3 is extending help to the plaintiffs for time and again. Plaintiffs and defendant no.3 by filing false applications are trying to prolong the suit. The instant suit was filed in the year 2017 and yet plaintiffs have not taken all the necessary steps and the trial has also not been commenced. Besides it defendant no.3 is also not giving the say promptly on the applications filed by these defendants, so as to prolong the proceeding. Hence, it is necessary that court should take the judicial notice of the fact that, defendant no.3 and his Ld. Advocate are helping the plaintiffs in the prosecution of the suit. Hence, the present application.

3. Plaintiffs as well as defendant no.3 have failed to file their say on the application.

4. Perused the record. Heard Ld. Advocate for defendants no.1 and 2. They have argued on the line of their respective contentions. It is evident from the record that, instant suit is filed by the plaintiffs for seeking relief of partition, separate possession, declaration and ancillary relief of injunction. It is settled principle regarding suits pertaining to partition that, every plaintiff is defendant and vice versa. Further the provisions incorporated in Order XII of the Code of Civil Procedure provides for statutory support by which and more particularly as per Rule 1 enables any defendants to support the plaintiffs claim in civil suits. This provision allows any party to give notice to admit the truth of the whole or any part of the case of any other party. If such a admission is brought on record that can lead to passing of a judgment on admission as per Order XII Rule 6 of CPC. Therefore, any one or more of the defendants can support the claim of plaintiff. In such type of contingency it cannot be said that, they are conducting the proceeding against the provisions of law. Consequently, it can be gathered that, the application filed by defendants no.1 and 2 is misconstrued to be falling under Section 52 of the Bharatiya Sakshya Adhinyam. Hence, I proceed to pass the following order.

**ORDER**

The application is hereby rejected with costs.

(Sachin H. Khade)

Civil Judge, S.D, Sinnar.

Date :- 17/02/2026.

