

MHNS280014902023



**ORDER BELOW EXH.117 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 Indian Evidence Act.
2. It has been contended that, defendant no.3 for time and again supports plaintiffs. Likewise the say filed by plaintiffs and defendant no.3 on the applications filed by these defendants is almost same. Further Ld. Advocates of plaintiffs and of defendant no.3 extend support to each other. This fact has been came on record and it can be seen from the pursis given at Exh.83. Consequently, it is necessary that, court should take the judicial notice of this fact. Hence, the present application.
3. Plaintiffs have filed their say vide Exh.122. Wherein it is submitted that, the present application is false and frivolous. There is no substance in the relief claimed. Further the instant suit is filed for seeking relief of partition and separate possession. Defendants no.1 and 2 are trying to create pressure on plaintiffs by filing false application. Hence, prayed for rejection of the application.
4. Defendant no.3 filed his say vide Exh.127 and contested it. According to him the present application is misleading and hence, not legally tenable. Thus, prayed for

rejection of the application.

5. Perused the record. Heard both sides. They have argued on the line of their rival 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 settle 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 56 of the Indian Evidence Act. Hence, I proceed to pass the following order.

**ORDER**

The application is hereby rejected with costs.

Date :- 23/12/2025.

(Sachin H. Khade)  
Civil Judge, S.D, Sinnar.