

**ORDER BELOW EXH.1**

In the instant suit the plaintiff has prayed to set aside the compromise decree passed in R.C.S. No. 207/2002 and RCS No.760/2017. (Hereinafter referred as the previous suit for brevity). However, as per Order XXIII Rule 3-A of the Code of Civil Procedure, 1908 (referred as CPC), “No suit shall lie to set aside a decree on the ground that the compromise on which the decree is based was not lawful.” Hence according to provisions by passing Order below Exh.01, the case was fixed for argument on the point of maintainability of the suit.

2. Heard both ld. Advocates at length.
3. Considering the material on record and arguments following points arise for my determination to which I have recorded my findings with reasons thereof as follow;

<u>Sr.No</u>	<u>POINTS</u>	<u>FINDINGS</u>
1.	Whether the plaint is liable to be rejected vide Order VII Rule 11 (d) of the Code of Civil Procedure 1908?	Yes
2.	What Order?	The suit is rejected.

REASONS**AS TO POINT NOS. 1 AND 2:-**

4. Perused certified copy of previous suit RCS No.760/2017. It appears that the previous suit was instituted for seeking relief for partition and separate possession. Except the

plaintiff the defendants in the instant suit were parties to the previous suit. The suit property was in previous suit from Block No. 211 situated at village Mankeshwar, Tq. Bhoom, Dist. Osmanabad and in the instant suit the suit property is same one. In previous suit defendant No.1 in the instant suit filed a compromise pursis vide Exh.13 in respect of suit property situated in Block No. 211 along with other properties. Then after according to compromise pursis the previous suit was disposed off as per terms and conditions of the compromise pursis.

5. The plaintiff in the instant suit is seeking relief of partition and separate possession of her share out of suit property situated in Block No.211 which has been distributed between defendant No.1 and other in previous suit. The ld. Advocate of plaintiff argued that the present plaintiff was not party to the previous suit and to the compromise deed. Therefore, the compromise decree passed in previous suit is not binding on her share and liable to be set aside the decree passed in previous suit. On the contrary, the defendant submitted that, though the plaintiff was not party the previous suit, she is not entitled to institute the separate suit against compromise decree. In this regard defendants relied on judgment given by the Hon'ble Supreme Court in **Triloki Nath Sing Vs. Anirudh Singh, 2020 SCC OnLine SC 444**. In this judgment the Hon'ble Apex Court laid down that, "civil suit filed by stranger to the compromise decree challenging legality of compromise is not maintainable;"

6. As per Order XXIII Rule 3-A of the Code of Civil Procedure, 1908, "No suit shall lie to set aside a decree on the ground that the compromise on which the decree is based was not

lawful.” Thus, in view of the provision and above legal position it is clear that the instant suit is not maintainable to set aside the compromise decree passed in previous suit. As per above discussion, the present suit is barred by Order XXIII Rule 3-A of the CPC. Thus, the suit is not maintainable therefore, it is necessary to reject the claim at threshold in order to avoid harassment of the parties. Hence the plaint is liable to be rejected vide Order VII Rule 11(d) of the Code of Civil Procedure, 1908. The plaintiff has come before court with bonafide intention. However, the suit has to be rejected due to barred by law and not by default of party therefore no just reason to impose cost. With this, I answer point No.1 in affirmative and to answer point No.2 following Order is passed:

:- ORDER :-

1. The plaint is rejected vide Order VII Rule 11 (d) of the Code of Civil Procedure, 1908.
2. No order as to cost.
3. The case is disposed off accordingly.

Date: 07.08.2026

(Smt A. B. Jondhale)
Jt. Civil Judge Jr. Dn., Bhoom.

C E R T I F I C A T E

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

Name of Stenographer	:-	S. S. Hingmire, (Grade-III)
Court	:-	Jt. C.J.J.D. & J.M.F.C. Bhoom
Date	:-	07.08.2026
Order signed by the Presiding officer on	:-	07.08.2026
Order uploaded on	:-	07.08.2026