

MHRT040005852016



**R.C.A. NO. 102/2016**  
**ORDER BELOW EXH.43**

Narendra Ramesh Yelve

Appellant

Vs.

Ramesh Ramchandra Yelve

Respondent

1. The application by the Respondent u/o 41 Rule 27 of The Code of Civil Procedure for production of additional evidence in appeal. It is submitted that the appellant has filed Regular civil Suit for permanent injunction which was dismissed by learned trial Court. Being aggrieved by the said Judgment and decree the appellant has preferred this appeal.

2. The Respondent came with the case that he has no house property in the suit property which is owned by the accused.

3. On 22-04-2025 the Respondent visited Grampanchayat Gimvhane for perusing certain documents. He came across documents in the year 2013. In those documents on 04-01-2013, appellant had filed application making complaints against Vitthal Ganu Mahadik, brother-in-law of the Respondent. The appellant admitted that Vitthal Ganu Mahadik has house

property No.709 and he has built that house without permission of the Grampanchayat. He has built on excess area of 27 feet x 27 feet. Due to this complaint made by the appellant it showed that the brother-in-law of the Respondent has house and shed in the suit property. Therefore it is necessary to produce the documents on record.

4. The appellant resisted the application by filing say at Exh.46. It is contended that the appellant had not filed any application against Vitthal Ganu Mahadik for construction in the suit property. The original suit against the Respondent is for permanent injunction against Respondent for obstructing possession of Appellant over survey No.74A Hissa No.8/1/1. Vitthal Ganu Mahadik has no relation with the suit property. The appellant has finally argued the appeal. There is no reason to file the document. It was submission of the Respondent from very beginning that his sister has house property in the suit property therefore it cannot be said that he was not aware about the document. The application is preferred to fill up the lacuna and therefore be rejected.

5. Heard learned advocates of both the parties. Perused the ruling of **Hon'ble Andhra Pradesh High Court** in Peddi Venkataravamma Vs. Chinnam Viswanadham 2024(1) CIVIL COURT CASES 0022 in which the Hon'ble Andhra Pradesh High Court has held that ,

*“However at the same time where the additional evidence sought to be adduced removes the cloud of doubt over the case and the evidence has a direct and important bearing on the main issue in the suit. Such application may be allowed. It depends upon whether the Appellate Court requires the evidence sought to be adduced to enable it to produce Judgment or for any other substantial cause. ”*

For that purpose in the said ruling Hon’ble Andhra Pradesh High Court considered ruling of **Hon’ble Apex Court** in Sanjay Kumar Singh Vs. The state of Zarkhand, 2022 (2) Civil Court Cases, 314(S.C.). In this particular case the Respondent has come with the case that appellant has made application against his brother-in-law for illegal construction in the year 2013 which was came across by him on 22-04-2025. It was not within his knowledge prior to 22-04-2025. In the said application the appellant has mentioned that block No.74/8A/1 is his land and house property No.709 of Vitthal Mahadik is constructed encroaching upon his land. It shall be considered that evidence was not before the learned trial Court. According to the appellant the document came across very recently when he took search of Grampanchayat record. He has filed affidavit to that effect. Therefore it appears that it was not within his knowledge prior to 22-04-2025 that appellant has filed complaint application against his brother-in-law. That application may be helpful to decide the matter in controversy. No prejudice will be caused to the appellant if application is allowed as he has good case on merit and opportunity to reply the argument advanced by the learned advocate of the Respondent. The ruling of Peddi

Venkataravamma (cited supra) is applicable to case before hand.  
In the result, I pass following order.

**ORDER**

Application is allowed.

Khed.

Date:- 16/06/2025

( P.S.Chandgude )

District Judge-1, Khed,  
Dist. Ratnagiri

**Certificate**

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

|                                  |                                                                  |
|----------------------------------|------------------------------------------------------------------|
| Name of the English Stenographer | Mrs.V.S.Kulkarni                                                 |
| Name of the Court                | Mr. P. S. Chandgude,<br>District Judge-1, Khed, Dist. Ratnagiri. |
| Date of Pronouncement            | 16.06.2025                                                       |
| Judgment/order Signed On         | 16.06.2025                                                       |
| Judgment/order Uploaded On       | 16.06.2025                                                       |