



Presented on : 04/06/2018
Registered on : 08/06/2018
Decided on : 09/04/2026
Duration : Yrs. Ms. Ds.
07 10 05

CNR No. : MHSI01-000565-2018

Exhibit No. : 21

IN THE COURT OF ADHOC DISTRICT JUDGE-1, SINDHUDURG
AT OROS, DISTRICT SINDHUDURG
(Presided over by Shri. S. S. Indalkar)

REGULAR CIVIL APPEAL NO. 80 OF 2018

1. Shri. Kishor Vasudev Sandav,
Age 52 Yrs., Occu.:- Agriculturist &
Service,
2. Shri. Ramchandra Vasudev Sandav,
Age 54 Yrs., Occu.:- Agriculturist &
Service,
3. Sou. Archana Anil Sukali,
(Kum. Bharati Vasudev Sandav),
Age 46 Yrs., Occu.:- Household,
4. Sou. Lalita Laxman Chavan,
(Kum. Asha Vasudev Sandav),
Age 44 Yrs., Occu.:- Household,
5. Sou. Amita Rajaram Parab,
(Kum. Lalita Vasudev Sandav),

APPELLANTS

(Ori. Plaintiffs)

- Age 58 Yrs., Occu.: - Household,
6. Sou. Hemalata Hiru Rane,
(Kum. Shobha Vasudev Sandav),
Age 50 Yrs., Occu.: - Household,
 7. Smt. Vijaya Vasudev Sandav,
Age 72 Yrs., Occu.: - Household,
All R/o. Chouke, Tal. Malvan,
Dist. Sindhudurg.

Vs.

1. Smt. Rukmini Waman Sukali,
Age 73 Yrs., Occu.: - Household,
2. Shri. Sunil Waman Sukali,
Age 53 Yrs., Occu.: - Service,
3. Shri. Kishor Waman Sukali,
Age 50 Yrs., Occu.: - Service,
4. Smt. Chitra Waman Sukali,
Age 55 Yrs., Occu.: - Household,
5. Smt. Devayani Dewoo Sawant,
Age 50 Yrs., Occu.: - Household,
Respondent No. 1 to 5
R/o. Opposite Ganesh Talkies,
R. N. 716, Seventh Floor, Amey
Co. Operative Housing Society,
Chinchpokli.

RESPONDENTS

(Ori. Defendants)

6. Shri. Laxman Balkrishna Sukali,
Age 50 Yrs., Occu.: - Agriculturist,
7. Shri. Bhikaji Vasudev Sukali,
Age 52 Yrs., Occu.: - Agriculturist,
8. Smt. Sulochana Vasudev Sukali,
Age 75 Yrs., Occu.: - Household,
9. Shri. Sahadev Mahadev Sukali,
Age 73 Yrs., Occu.: - Agriculturist,
10. Shri. Madhukar Mahadev Sukali,
Age 69 Yrs., Occu.: - Agriculturist,
11. Shri. Bhaskar Mahadev Sukali,
Age 65 Yrs., Occu.: - Agriculturist,
12. Shri. Baburao Mahadev Sukali,
Age 60 Yrs., Occu.: - Agriculturist,
13. Shri. Vinayak Mahadev Sukali,
Age 55 Yrs., Occu.: - Agriculturist,
Respondent No. 6 to 13
R/o. Karlachavhal, Tal. Malvan,
Dist. Sindhudurg.
14. Sou. Sujata Anaji Dalavi,
Age 70 Yrs., Occu.: - Household,
R/o. Talgaon, Dalaviwadi,
Tal. Malvan, Dist. Sindhudurg.
15. Smt. Janaki Bhikaji Sawant,
Age 75 Yrs., Occu.: - Household,

R/o. Khalachi Devali, Tal. Malvan,
Dist. Sindhudurg.

16. Sou. Sunita Suresh Sudrik,
Age 65 Yrs., Occu.:- Household,
R/o. Pendur, Raiwadi, Tal. Malvan,
Dist. Sindhudurg.

17. Sou. Madhavi Ashok Parab,
Age 57 Yrs., Occu.:- Household,
R/o. Bav, Bambuli, Tal. Kudal,
Dist. Sindhudurg.

Advocates for the Parties –

For Appellants	-	Shri. M. A. Bavkar
For Respondent No. 1, 6 to 13	-	Shri. M. B. Sukali
Respondent No. 2 to 5, 14 and 15	-	Dismissed
Respondent No. 16 and 17	-	Ex-parte

JUDGMENT

(Delivered on 9th April 2026)

1. This is the appeal filed under Order XLI, Rule 1 and 2, r/w. Section 96 of the Code of Civil Procedure, 1908 (In short C.P.C.), against the judgment and decree in Regular Civil Suit No. 82/2014, dated 27/04/2018, passed by the Ld. Civil Judge (J.D.), Malvan. Through, impugned judgment and decree, Ld. Trial Judge has dismissed the suit of the plaintiffs.

2. Being aggrieved and dissatisfied with the said judgment and decree present appellants (original plaintiffs) have preferred this appeal.

For the sake of convenience, parties are referred by their original nomenclature henceforth.

3. The facts arises to decide this appeal in short, are as under:-

Plaintiffs' case -

The properties situated at village Nandrukh (Karlachavhal), Tal. Malvan, Dist. Sindhudurg, are more particularly described as under:-

Sr. No.	Survey No.	Hissa No.	Area H.R. Potkharaba	Assessment Rs. Ps.
1	20 (422)	3	0-73-0 P.K. 1-11-0	0.24
2	141 (300)	2	0-59-0 P.K. 0-16-0	0.20

The various trees are situated in the said properties. (Hereinafter referred as '**suit properties**' for the sake of convenience.) According to plaintiffs, out of the suit properties, defendant No. 1 to 5 get bifurcated Survey No. 20 (422), Hissa No. 3 illegally from Talathi, which is as under:-

Sr. No.	Survey No.	Hissa No.	Area H.R. Potkharaba	Assessment Rs. Ps.
1	20 (422)	3	0-54-25 P.K. 0-83-25	0.18
2	20 (422)	3B	0-18-25 P.K. 0-27-75	0.06

Talathi has illegally made 7/12 extracts of the present year.

4. It is further contention of plaintiffs that, suit properties are in ownership of original defendants and Sukali family. Out of the suit properties, 5 Anna 8 Pai share of Survey No. 20 (422), Hissa No. 3, was purchased by father of plaintiff No. 1 to 6 and husband of plaintiff No. 7, namely, Vasudev Ramchandra Sandav, from defendant No. 7 to 17 and

deceased Pandu Bhanaji Sukali, by registered sale-deed, dated 28/12/1966. So also, out of Survey No. 20 (422), Hissa No. 3, the area of 4 Anna 4 Pai, and out of Survey No. 141 (300), Hissa No. 2, the area of 4 Anna 4 Pai, total area admeasuring 33 Gunthas, was purchased by father of plaintiff No. 1 to 6 and husband of plaintiff No. 7, namely, Vasudev Ramchandra Sandav, from Pilaji Gopal Sukali, Satyabhama Babaji Sukali, Taramati Gangaram Sukali, by registered sale-deed, dated 07/03/1967. The name of father of plaintiffs was entered into revenue record alongwith defendants. In fact, defendant No. 1 to 5 get bifurcated Hissa No. 3 illegally from Talathi, as Hissa No. 3 and 3B. From February 2014, defendant No. 1 to 5 have obstructed to the peaceful possession of plaintiffs through Satish Dhaku Sukali. So also, without getting partition of the suit properties, they are trying to give the suit properties to another person for excavation of laterite stones.

5. It is further contention of plaintiffs that, plaintiffs are having 10 Anna share jointly in Survey No. 20, Hissa No. 3, on the basis of sale-deed. Whereas, defendant No. 1 to 5 are having 4 Anna share, defendant No. 6 is having 2 Anna share in the above property. Likewise, in Survey No. 141, Hissa No. 2, plaintiffs are having jointly 1 Anna 4 Pai share, defendant No. 1 to 5 are having jointly 4 Anna share, defendant No. 6 is having 4 Anna share, defendant No. 7 to 8 are having jointly 2 Anna 8 Pai share, defendant No. 9 to 17 are having jointly 4 Anna share. Hence, they prayed for partition and separate possession of the suit properties, as claimed.

Defendants' case -

6. Defendant No. 6, 7 and 9 have filed their written statement at Exh. 21. After perusal of the written statement, these defendants have not

objected for partition and separate possession of the suit properties. They have admitted the claim of plaintiffs and share of defendants and asked for separate possession of defendants. They are ready to pay the necessary Court fee.

7. After service of suit summons, defendant No. 1 to 5 and 10 to 17 have failed to appear before the Court. Hence, suit proceeded ex-parte against them. After service of suit summons, defendant No. 8 appeared, however, failed to file written statement. Hence, the suit proceeded without written statement against her.

8. After considering the evidence and rival submissions before Court, the Ld. Trial Court has dismissed the suit of the plaintiffs.

9. Being aggrieved by the said judgment and decree the plaintiff has preferred this appeal against the impugned judgment and decree on the following grounds:-

(i) The impugned judgment and decree passed by the Ld. Trial Court is wrong, illegal and contrary to law.

(ii) The Ld. Trial Court has not considered properly the oral and documentary evidence produced by the plaintiffs.

(iii) The issues are not properly framed and have not been correctly decided. The inference drawn, reasons assigned and conclusions arrived at, are wrong and against the evidence on record and against the principle of equity justice. Hence, they preferred appeal against the judgment and order for above mentioned grounds.

10. Appellants have not taken steps for service of notices upon respondent No. 2 to 5, 14 and 15. Hence, appeal is dismissed against

respondent No. 2 to 5, 14 and 15. In response to the notices, respondent No. 16, 17, have failed to appear. Hence, appeal proceeded ex-parte against them vide order below Exh. 1.

11. From the rival pleadings of the parties, the Ld. Trial Court has framed necessary issues at Exh. 27. Before Ld. Trial Court, on behalf of plaintiffs, Smt. Archana Anil Sukali, Nee Bharati Vasudev Sandav has adduced her evidence by way of affidavit (P.W.1) at Exh. 31. On the other hand, defendants have not adduced any oral evidence. They have filed pursis at Exh. 33 and contended that, they shall not adduce any oral evidence.

12. After hearing both parties at length, perusal of documents in the paper book, following points arise for determination, against which I have recorded my findings thereon with reasons as below:-

Sr. No.	POINTS	FINDINGS
1.	Whether plaintiffs are entitled to have partition of the suit properties ? If yes, what would be the respective share of the parties ?Yes.
2.	Whether plaintiffs are entitled for relief claimed ?Yes.
3.	Whether the impugned judgment and decree call for any interference ?Yes.
4.	What order ?As per final order.

-: REASONS :-

AS TO POINT NO. 1 AND 2 :-

13. As both these points are interconnected and based on the same set of facts and evidence, I propose to club them together.

14. The relations of plaintiffs interse, are not disputed. Plaintiff No. 1 to 6 are the sons and daughters and plaintiff No. 7 is the wife of deceased Vasudev Ramchandra Sandav. In the suit properties, plaintiffs are claiming 10 Anna share jointly in Survey No. 20 Hissa No. 3, on the basis of sale-deed, dated 28/12/1966 and 07/03/1967. Whereas, in respect of Survey No. 141 Hissa No. 2, plaintiffs are jointly claiming 1 Anna 2 Pai share, on the basis of sale-deed, dated 07/03/1967. After considering the claim, plaintiffs have adduced the oral and documentary evidence. In the appellate stage, plaintiffs have produced the above mentioned sale-deeds. In this regards, it is the contention of plaintiffs that, out of Survey No. 20, Hissa No. 3, the father of plaintiff No. 1 to 6, namely, Vasudev Ramchandra Sandav, was purchased 5 Anna 8 Pai share, by the registered sale-deed, dated 28/12/1966. Whereas, deceased Vasudev also purchased 4 Anna 4 Pai share in Survey No. 20, Hissa No. 3, from Pilaji Gopal Sukali, Satyabhama Babaji Sukali and Taramati Gangaram Sukali, by registered sale-deed, dated 07/03/1967. Therefore, plaintiffs are entitled for 10 Anna share in Survey No. 20, Hissa No. 3, jointly on the basis of the sale-deeds of above survey numbers. Likewise, it is undisputed fact from the pleadings and documentary evidence that, defendant No. 1 to 5 are having jointly 4 Anna share and defendant No. 6 is having 2 Anna share in Survey No. 20, Hissa No. 3.

15. Now, turning to the property bearing Survey No. 141, Hissa No. 2. Plaintiffs have jointly claiming 1 Anna 4 Pai share, on the basis of sale-deed, dated 07/03/1967, purchased by their father namely, deceased Vasudev. This is supported by the documentary evidence that, plaintiffs are jointly entitled for 1 Anna 4 Pai share in the above survey number. Likewise, it is matter of fact that, defendant No. 1 to 5 are jointly entitled for 4 Anna share, defendant No. 6 is entitled for 4 Anna share, defendant No. 7 and 8 are jointly entitled for 2 Anna 8 Pai share, defendant No. 9 to 17 are jointly entitled for 4 Anna share. This factual aspect is supported by documents produced by plaintiffs and the contention of them in the evidence. This factual aspect is not disputed by defendants. On this background, plaintiffs are entitled for partition and separate possession of the suit properties, as discussed herein above. In this respect, plaintiffs have proved that, they are having share in the suit properties, as discussed herein above. They are entitled for partition and separate possession to their respective shares, as claimed. Therefore, in view of above discussion, the Court answer Point No. 1 and 2, in 'affirmative'.

AS TO POINT NO. 3 :-

16. In view of above discussion, plaintiffs and defendants are entitled for partition and separate possession of the suit properties, as per the above discussion. Plaintiffs have claimed the partition and separate possession of the suit properties to the extent of their claim. Plaintiffs have proved the entitlement of share on the basis of sale-deeds. In this respect, the Ld. Trial Court has failed to appreciate that, plaintiffs are entitled for the partition and separate possession on the basis of registered sale-deeds. Therefore, to that extent, the findings of the Ld. Trial Court is found to incorrect, perverse and not as per the settled legal principle of law.

Therefore, said findings are required to be set aside. Therefore, the impugned judgment and decree is perverse, illegal and required to be interfered. Hence, in view of above discussion, the Court answer Point No. 3, in 'affirmative'.

AS TO POINT NO. 4 :-

17. In answer to Point No. 4, the Court pass the following order:-

:- ORDER :-

1. The appeal is allowed with costs.
2. The impugned judgment and decree in Regular Civil Suit No. 82/2014, passed by the Ld. Civil Judge (J.D.), Malvan, on 27/04/2018, is quashed and hereby set aside, as under:-
3. The suit is decreed with costs.
4. It is hereby declared that, plaintiffs are entitled for the partition and separate possession of 10 Anna share jointly, defendant No. 1 to 5 are entitled for 4 Anna share jointly, defendant No. 6 is entitled for 2 Anna share, in the suit property, i.e. Survey No. 20, Hissa No. 3, total area admeasuring 0-73-0 H.R., Potkharaba 1-11-0 H.R. situated at village Nandrukh (Karlachavhal), Tal. Malvan, Dist. Sindhudurg.
5. It is hereby further declared that, plaintiffs are entitled for the partition and separate possession of 1 Anna 4 Pai share jointly, defendant No. 1 to 5 are entitled for 4 Anna share jointly, defendant No. 6 is entitled for 4 Anna share,

defendant No. 7 and 8 are entitled for 2 Anna 8 Pai share jointly, defendant No. 9 to 17 are entitled for 4 Anna share jointly, in the suit property, i.e. Survey No. 141, Hissa No. 2, total area admeasuring 0-59-0 H.R., Potkharaba 0-16-0 H.R. situated at village Nandrukh, Tal. Malvan, Dist. Sindhudurg.

6. Decree be sent, to the Collector, Sindhudurg or any gazetted subordinates of him, deputed by him in his behalf, in accordance with law, for the time being in force, under Section 54 of the Code of Civil Procedure, for effecting partition of the suit properties.
7. The plaintiffs to pay deficit Court fee stamp, if any, on their share.
8. The defendants to pay Court fee stamp, on their share.
9. Preliminary decree be drawn up accordingly.

(Dictated and pronounced in open Court).

**Sindhudurg-Oros,
Date - 09/04/2026**

**(S. S. Indalkar)
Adhoc District Judge-1,
Sindhudurg-Oros.**