

२ दि. जपिल नं. ३८
२०२४

इस्लामपुर ये. मे. जिल्हा न्यायाधीश क्र. १
यांचे कोर्ट

१) श्रीमती मनोरमा प्रताप वर्गे. डापेलंट
११/११

१) श्री. भास्कराहळी भास्कराहळी सुयवशी - १००
चात डापेलंट सर्फ पुरसीव

की,
सदरकामी डापेलंट
सर्फ दुस्त डापेलंट
आहे तो दाखल करून द्यावा
महणून दिली पुरसीव.

दि. २३/१२/२०२४

इस्लामपुर

Adm

Adm
१३/१२/२४

Amended Plaint

Court Copy -

[सदर अजचिकामी मे कोर्टनी नि. 20 चे कामी दि. 09/12/2024
रोजी केले आदेशान्वये दुरुस्ती करून सदरची दुरुस्ती नि. 1 ची प्रत
दाखल केली असे.]

[Signature]
अडवोकेट

RCA No. 38 /2024

In The Court of District Judge Islampur,

At. Islampur

1) Manorama Pratap Barge,

Age – 57, occupation- Household

A/p – Shirala, Tal – Shirala,

Dist.-Sangli.

Appellant

(Original Plaintiff)

Versus

1) Tatyasaheb Bhausaheb Suryawanshi

(Deceased Through Lrs.)

1A) Shri. Rajendra alias Raju,

Tatyasaheb Suryawanshi

Age – 47, occupation- Service,

R/o- Ferguson College, Servant

Quarter near cricket ground,

Pune – 5.

1B) Sou. Rekha Pandurang Shinde,

Age – 55, occupation- Household,

R/o- Ugarkhurd, Tal- Miraj,

Dist. – Sangli.

1C) Vijaya Pandurang Shinde,

Respondents

(Original Defendant)

[Handwritten note:]
Responsibility
for 1
23/12/24

(Deceased Through Lrs.)

1C1) Shri. Dhiraj Pandurang Shinde,

Age – 44, occupation- Service,

1C2) Parasharam Pandurang Shinde,

Age – 41, occupation- Service,

1C (1) and 1C (2) both are

R/O- Saiprasad apartment, plot no. 105,

3rd floor, in front of V.V.Electronics,

Shivane, Deshmukhwadi, Uttamnagar,

Pune. 411023.

1C3) Meghana Nandkumar Pawar,

Age – 50, occupation- Household,

1C4) Aarti Ashok Deshmukh,

Age – 48, occupation- Household,

No. 1C3 and 1C4

C/o- Parasharam Pandurang Shinde,

R/O- Saiprasad apartment, plot no. 105,

3rd floor, in front of V.V.Electronics,

Shivane, Deshmukhwadi, Uttamnagar,

Pune. 411023.

2) Shrikant Rajaram Patil,

Age – 49, occupation- Agriculture,

R/O- Naykudpura, Shirala,

Tal. **"Sangli"** Dist. – Sangli.

3) Shrikant Nanaso Tanavade,

Age – 48, occupation- Agriculture,

R/O- Naykudpura, Shirala,

Tal. **"Sangli"** Dist. – Sangli.

Respondents

4) Sayali Sanjayrao Deshmukh,

Age – 50, occupation- Household,

A/p- Shirala, Tal. - Shirala,

Dist. – Sangli.

Respondents

Appeal as per Order 41 and Rule 1 and 2

Valuation & Subject Matter of the appeal- Rs. /-

The appellant states that:-

Being aggrieved and dissatisfied by order, judgement and decree passed by the second Civil Judge Junior Division Court Shirala Mr. S. A. Surjuse in RCS number 11/2012, this appeal is preferred against the same upon the following grounds and the grounds which may be argued at the time of hearing.

Grounds of appeal:-

- 1) That the order decree and judgement of the lower court is against the law, equity and natural justice.
- 2) That the lower court has failed to consider evidence on record.
- 3) That the lower court has failed to consider that the suit property bearing survey number 7/1A admeasuring 2 hector 33 R plus pot kharab 3 R and survey number 7/6 admeasuring 49R situated at shilara where originally belonged to Bhimrao Yadavrao Deshmukh and it was his ancestral property having 5 Anne 4 Pai share. The property being ancestral the plaintiff appellant being daughter of Bhimrao was having undivided share in the suit property.
- 4) That the lower court has failed to consider that plaintiff appellant father Bhimrao was illiterate. The respondent no. 1 Tatyasaheb got executed forcibly sale deed of suit property in his favour on 25/09/1987 for rupees 5000/- only. Considering share of Bhimrao in

both the survey numbers his share 5 Anne 4 Pai addmajors at 0 hector 91 R. Hence respondent no. 1 is trying to grab the property of 91 R at just 5000/- rupees.

- 5) That the lower court has failed to consider that the appellants father Bhimrao has executed mortgage by conditional sale in favour Jagannath Raghunath Patil dated 22/07/1985. That is prior to sale deed of Respondent no. 1. The said mortgage was registered mortgage deed for Rs. 4000/-. Hence the possession of survey no. 7/6 to the extent of 5 Anne 4 Pai share (16.33R) was in possession of Jagannath Raghunath Patil being mortgagee. Hence respondent no. 1 did not received the possession of suit property. But the lower court failed to consider the fact of possession. The said mortgage is at exhibit 170 in lower court.
- 6) That the lower court has failed to consider that the appellant herself brought the suit for redemption of mortgage deed, the said suit bears RCS no. 95/2004. The said suit was brought against Jagannath Raghunath patil mortgagee and purchaser after mortgage Respondent no. 1 Tatyasaheb Suryavanshi. The said suit was decreed on 14/7/2008. The said decree and judgement is on record at exhibit 168 and 169. Then appellant filed Decree final application bearing D.F.No. 3/2009 and reconveyance deed in favour of appellant was executed in the said decree final proceeding bearing dasta number 962/2011. The said reconveyance deed is on record at exhibit 159. The recitals in the same reconveyance deed itself shows that the possession of survey number 7/6 to the extend of 5 Anne 4 Pai share has been handed over to appellant plaintiff. But this fact of possession has not been considered by the lower court. It clearly shows that the original

respondent no.1 purchaser did not received the possession of suit property by sale deed dated 25/09/1987.

- 7) That the lower court intentionally avoided to mention the date of mortgage and avoided to note finding on the same.
- 8) That the lower court has also failed to consider the certified mutation entry number 6716 which was executed for entering reconveyance deed which is at exhibit 190 in lower court.
- 9) That the suit property was originally belong to Yadavrao Deshmukh having three sons namely Shamrao having 1/3 share, Bhimrao having 1/3 share and Arjunrao having 1/3 share this position admitted to the both parties.
- 10) That the lower court has failed to consider that respondents did not filed any complaint against reconveyance deed and M.E.No. 6716.
- 11) That the lower court has also failed to consider that the suit property was vatan land and prior permission of collector was necessary for execution of sale deed in favour of respondent no .1 on 25/09/1987. The government resolution filed by respondent is dated 9/02/2002. Therefore in the year 1987 permission was necessary.
- 12) That the lower court has failed to consider that the appellant was having equal share in suit property at the time of execution of sale deed of suit property in favour of respondent no. 1.
- 13) That the lower court has failed to consider that the sale deed of 91R area out of suit property in favour of respondent no. 1 was undervalued for that purpose the court has failed to the consider evidence on record at exhibit 171 and 172 and evidence of DW 2. The defendant respondent witness DW2 admitted in her cross examination that in the year 1987 the landed property was valued at rupees 5000/-

per guntha and respondent no. 1 has purchased 91R landed property at just rupees 5000/-.

- 14) That the lower court has failed to consider that respondent no. 1 did not tried to reconvey the property either in the redemption suit in RCS no. 95/2004 or decree final proceeding 3/2009. Thought he was party to both the proceedings. He was having right being purchaser to reconvey the suit property. But he failed to do so. Hence relinquished his right to reconvey property.
- 15) That the lower court is wrong in coming to conclusion that the suit is not within limitation. When the plaintiff appellant was obstructed by defendants respondents on 9/04/2005 and then she got information about the sale deed of respondent no. 1. The Respondent though having sale deed dated 25/09/1987 firstly obstructed plaintiff appellant possession over suit property on 9/04/2005 and after enquiry from that date she had a knowledge about Respondent no. 1 sale deed. Therefore from the date of knowledge about the sale deed of respondent the original suit within limitation.
- 16) That the lower court has failed to consider that being sale deed in favour of respondent no. 1 is illegal due to undervaluation, without consent of plaintiff appellant, without consideration and without possession. Hence the further sale deeds in favour of respondent no. 2 & 3 are also illegal.
- 17) **Limitation:**
That the order, decree and judgement of lower court was passed on 22/09/2024, the certified copies of the same were applied on 28/02/2024, the same were ready and received on 2/04/2024. Hence excluding the time for obtaining the certified copies of judgement decree and order, This appeal filed today is clearly within limitation.

18) **Valuation of appeal:**

That the original suit of the appellant plaintiff was valued for injunction at rupees 2000 and court fee of rupees 200 was paid. And for the purpose of declaration it was valued at rupees 1,05,000/- and the court fee of rupees 3955 was paid. The same valuation has been fixed for jurisdiction and computation of advocate fees.

19) **Jurisdiction:**

This court has jurisdiction to try and decide the appeal.

20) No other appeal or revision is filed against the order and judgement of lower court.

21) **The appellant prays that:**

- A. Considering the above grounds and grounds which may be argued at the time of hearing setting aside the order and decree passed by Civil Judge Junior Division Shirala in RCS no. 11/2012(old Spl.C.S.25/2005). This appeal be allowed with cost.
- B. That the original suit of the plaintiff appellant for injunction and declaration be decreed with cost.
- C. The appellant be permitted to alter or amend the appeal memo as and when necessary and prayed for the same.
- D. Any other relief which court may think fit may please be passed in favour of appellant.

For this act of kindness appellant shall ever prays.

DT. 16/04/2024
Islampur

१ मनोरमा वेगे

Verification

I Manorama Pratap Barge, Age-57,
Occupation- Household, R/O- Shirala, do solemnly affirms and
states that all the contents in the above appeal memo are true and
correct to the best of my knowledge and belief.

Dt. 16/04/2024
Islampur

✓ मनीरमा बार्गे

M. V. Kulkarni
Adv.
(Adv. M. V. Kulkarni)