

**Order Below Exh.19 in R.C.S.No.89/2026**  
**(CNR No.MHSN120005872026)**

The present application is filed by defendants under order 7 rule 11 of Code of Civil Procedure.

2. It is submitted by defendants that the the plaintiff has encroached on 14 gunthe land of gat no.445, the said encroached portion cannot be a part and parcel of gat no.435, defendants have filed an application before Taluka Land Inspector Palus on 27.01.2023 for measurement and fixation of boundaries of gat no.445, accordingly on 10.05.2023 boundaries were fixed and on 05.06.2023 map were prepared, on the basis of map defendants have filed an application/proceeding under MLR code before Tahasildar Palus bearing no.BND/SR/17/2023. It is further submitted by the defendants that boundaries of gat no.445 were fixed and map is prepared on 05.06.2023, the plaintiff ought to have file the present suit within one year, in spite of knowledge plaintiff has not filed the present suit within one year the suit is bared by law of limitation, therefore the suit is hit by the provisions of Order 7 Rule 11 of C.P.C., therefore they prayed that plaint be rejected and application be allowed.

3. Plaintiffs by filing their say to the present application vide Exh.25 denied each and every adverse assertion made against them, there is no cause of action to file the present application, the application is false and frivolous, the plaintiffs are not having any knowledge of order of Tahasildar, plaintiffs have applied for certified copies on 13.05.2026 and they have received the copies on

14.05.2026, they have come to know about the order of Tahasildar after receipt of certified copy, the suit is well within limitation, the application is not tenable, therefore they prayed that application be rejected with costs.

4. Heard Ld. Advocate Shri. V.S. Valujkar for defendants and Ld. Advocate Shri.V.G. Jadhav for plaintiffs at length.

5. Ld. Advocate for defendants submitted that the suit is barred by limitation, the map and boundaries were fixed in the year 2023, plaintiff ought to have filed the present suit within one year from fixation of boundaries of and preparation of map, therefore the suit is barred by law of limitation as per section 138 of MLR Code, therefore he prayed that the application be allowed and plaint be rejected.

6. On the contrary Ld. Advocate for plaintiffs argued that the plaintiffs have filed the present suit against the Order of Tahasildar dated 04.12.2025, the suit is filed within limitation, there is no cause of action to file the present application, the present application is bad in law, therefore he prayed that the application be rejected with cost.

7. Perused the application and record. It is trite law that adjudication upon an application preferred under Order VII Rule 11 of the Code of Civil Procedure, 1908, is circumscribed by the averments contained in the plaint and the documents annexed thereto or relied upon by the Plaintiff. The Court is enjoined to

consider the plaint in its entirety and in a holistic manner. It is impermissible to draw sustenance from the defence pleaded by the defendants in their written statement for the purposes of disposing of such application. Accordingly, the pleadings in the plaint alone shall constitute the exclusive substratum for determination of the application under consideration.

8. The defendants have, at the threshold, raised an objection as to the maintainability of the suit on the ground that, the suit is barred by law of limitation. It is matter of record that, plaintiffs have approached to this court and sought the relief of declaration and injunction against the order of Tahasildar Palus dated 04.12.2025. Upon perusal of record it appears that the defendants have filed an application before Taluka Land Inspector Palus and accordingly on 10.05.2023 notices were issued for fixation of boundaries and on 05.06.2023 map is prepared. It is apparent from the record that on 17.01.2025 Tahasildar Palus has passed an order and directed to remove the encroachment in gat no.445, on 04.12.2025 as per the order of SDM Kadegaon, the Tahasildar Palus has passed a revised order on 04.12.2025 and accordingly came to be in finality on 04.12.2025. Sec.138 of MLR code provides that Civil Suit to be filed within one year from the date of ejectment or from settlement of boundaries to establish claim if any. As discussed above the Tahasildar Palus has passed an order for ejectment on 17.01.2025 and the corrected order came to be passed on 04.12.2025, plaintiffs have challenged the order of Tahasildar passed on 04.12.2025, from the record it appears that the present suit is filed well within the limitation from 04.12.2025 as provided under Sec.138 of M.L,R

Code, therefore the application is devoid of merit, the suit is not hit by the provisions of order 7 rule 11 of C.P.C., therefore the application is deserves to rejected. Hence I proceed to pass the following order.

### **O R D E R**

- 1] The application at **Exh.19** is rejected.
- 2] Costs in main cause.
- 3] Parties to take note of this order.

Palus.  
Date- 17.07.2026.

(M.A.M.J. Shaikh)  
Civil Judge Junior Div. Palus.

### **CERTIFICATE**

I affirm that, the contents of this PD.F file are same, word to word, as per the original order.

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|------------------------------------------|---------------------------------------|
| Name of the Stenographer                 | : Sou.G.A. Patil (Grade-3)            |
| Court                                    | : M.A.M.J. Shaikh, CJJD & JMFC Palus. |
| Date                                     | : 17.07.2026                          |
| Order signed by the Presiding officer on | : 17.07.2026                          |
| Order uploaded on                        | : 17.07.2026                          |