

ORDER BELOW EXH. 25

(Passed on : 08.05.2026)

This is an application filed by the defendant no. 3 to rejection of the plaint vide O. VII R. 11 of CPC.

2] It is submitted through the application that the suit of the plaintiff is barred by the provisions of the limitation act. The plaintiff has sought cancellation of the order of the learned Tahsildar that dated 11.05.2023. However, after going through the provisions section 143(5) it can be seen that, it is necessary for the plaintiff to file suit within one year from the passing of the said order. So also, the plaintiff has filed the present suit on the same cause of action which has arosed for him to file previous suit RCS No.543/2024. Therefore, the present suit is hit by provisions of Res-judicata. Though the suit is withdrawn on 29.01.2025 as per the provisions of Order VII Rule 11 when the suit is barred by law of limitation, the suit is not maintainable. Therefore, it is preayed to reject the plaint.

3] The present application is strongly contested by the plaintiff by filing his say at Exh.30. It is contended that all the contents of the application are not true and correct. It is further stated that, the defendant No.3 had filed an application under section 143 of the Maharashtra Land Revenue Code, 1966 for allotment of road passing through the suit property in Road case

No.143/SR/12 of 2021 which was allowed on 11.05.2023. The said order was challenged by the plaintiff by filing RTS Appeal No.236/2023 before the Hon'ble SDO. In the said appeal the order dated 11.05.2023 was cancelled. Against the order of cancellation of the said allotment of road order, the defendant No.3 referred second RTS Appeal No.43/2024 before the Hon'ble Collector, Solapur. The said appeal was disposed off by an order dated 03.04.2024. Therefore, the defendant No.3 has made an review application bearing No.05/2024, which is pending before the Joint Collector. It is true that the plaintiff ought to have challenged the order of Tahsildar within one year. Yet by considering important facts the defendant No.3 preferred this application. As the review application is still pending. This plaintiff had filed the RCS No.543/2023 against the defendant and others. However, the cause of action and other reliefs in both the suits are different. Only by contending that the plaintiff had earlier filed suit against defendant it cannot be said that the, present suit is not maintainable. The present suit is filed by the plaintiff within limitation. Hence, it is prayed to reject the application.

4] Taking into consideration the averment of both the parties. Following points arise for my determination and I record by following findings upon it along with my reasons as under.

5] Points for determination along with findings and reasons thereon are as follows.

<u><i>Sr. Nos.</i></u>	<u><i>Points</i></u>	<u><i>Findings</i></u>
1.	Whether the plaint is liable to be rejected under the provisions of Order 7 rule 11 ?	No.
5.	What Order?	As per final order.

AS TO POINT NO. 1 TO 3 :-

6] As all the points are inter linked, same are taken together for discussion. Heard Ld. Advocate for parties.

7] Perused the record of the case and the documents placed on record by both the sides. The Ld. Advocate for the defendant argued that the order of Ld. Tahashildar which the plaintiff intends to challenge before this court is passed on 11.05.2023 where as the present suit is filed on 2.08.2025. Thus, more than one year has passed since the passing of the said order. Therefore, the suit of the plaintiff is hit by the provisions of limitation act. So also, the plaintiff had earlier filed the suit bearing RCS NO.543/2024 which is withdrawn by the plaintiff on 29.01.2025. Therefore, he cannot file the suit on the same cause of action again and again. Therefore, the suit of the plaintiff is not

maintenable. Hence, the plaint is liable to be rejected. Thus it is prayed on behalf of defendant to reject the plaint.

8] The Ld. Advocate for plaintiff argued that, the order passed by the learned Tahsildar is dated 11.05.2023 and the present suit is filed after expiry of one year from the passing of the said order. Yet, the said order of the Tahsildar was under challenge. Therefore alike the principles which are applicable for civil suits the same are applicable to the revenue cases. The appeal and revision preferred on the said order is continuation of suit. Still review application No.05/2024 is also pending. Therefore, the plaintiff has every right to challenge the said order which needs to be considered within limitation. Therefore, the present suit cannot be rejected on the ground of bar of limitation. So also, the cause of action and the reliefs sought in the present suit are not similar to the previous suit bearing RCS No.543/2023. Therefore, the present suit is no way hit by the provisions of provisions of Res-judicata. It is further argued that the present application is filed by the defendant No.3 only to harass the plaintiff. Therefore, this application is not maintainable and deserves to be rejected.

9] The present suit is filed by the plaintiff for cancellation of the order of Ld. Tahsildar in Road/Section/143/SR/12/2021 dated 11.05.2023 and also for perpetual injunction that the

defendant should not cause obstruction to the peaceful possession of the plaintiffs over the suit property. As rightly pointed out by the defendant the said order is dated 11.05.2023 where as the suit is filed on 22.08.2023. Therefore, it is evident that the suit is filed after more than one year after passing of the said order. The Ld. Advocate for the plaintiff argued that, through more than one year has been passed, after passing of the said order, yet the said order was under challenge in the appeal and the revision is preferred against the said order appeal. Therefore, the plaintiff is entitled to challenge the said order in this court though more than one year has been passed.

10] The second objection which is raised by the defendant to contend that the suit of the plaintiff is not maintainable on the ground that similar suit was filed by the Plaintiff earlier. Plaintiff has admitted that earlier he had filed a suit bearing RCS No.543/2023. However, according to the plaintiff the ground for the suit, the cause of action and also the relief sought in both the said suits are different and therefore the objection raised by the defendant is not applicable. After going through the pleadings in the present suit it can be seen that the plaintiff only intends to challenge the order of Ld. Tahsildar dated 11.05.2023. The execution of the said order has not yet taken place. Therefore, the plaintiff has every right to challenge the said order as he

considered the same to be void and illegal. So also in the earlier suit the plaintiff had not impleaded the Tahashildar as party to the suit. Therefore, it cannot be said that the parties in both the suits are similar. Thus, in the light of the above discussion I conclude that, both the points which are raised by the defendant contending the suit of the plaintiff to be not in limitation and bar by law is not maintainable. Therefore, the suit of the plaintiff appears to be maintainable and therefore the plaint cannot be rejected on the grounds raised by the defendants. Hence, I answer point No.1 and 2 in the affirmative and to answer point No.3 I pass the following order.

	<u>ORDER</u>
1.	Application is rejected
2.	Parties to bear their own cast.

Place – Pandharpur

Date – 08/05/2026

(Smt. S. S. Pakhale)
Jt. Civil Judge, S.D. Pandharpur

CERTIFICATE

I affirm that the contents of this PDF file Judgment/Order are same word to word as per the original Judgment/Order.

Name of the Stenographer	-	A. I. Khan (Steno G-II).
Court	-	Civil Judge, Senior Division, Pandharpur.
Date of Judgment/Order on	-	08.05.2026.
Judgment/Order signed by the Presiding Officer on	-	08.05.2026.
Judgment/Order uploaded on	-	08.05.2026.