


MHSO070001302019 	Received on	:	05.03.2019		
	Registered on	:	06.03.2019		
	Decided on	:	24.03.2026		
	Duration	:	YY	MM	DD
			07	00	19

**IN THE COURT OF JT. CIVIL JUDGE, JUNIOR DIVISION,  
PANDHARPUR, TAL. PANDHARPUR, DIST. SOLAPUR  
(Presided over by - Smt. S.S.Raul)**

**Regular Civil Suit No. 111/2019**

**Exh.No. A/50**

**Mandodari Nivrutti Kashid**

Age : 58 Years, Occ. : Agri. & Household,  
R/o : Shetphal (Tapkiri),  
Tal. Pandharpur, Dist. Solapur.

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**... Plaintiff**

**:: VERSUS ::**

**1. Audumbar Narhari Kashid**

Age : 60 years, Occ. : Agriculturist,  
R/o : Shetphal (Tapkiri),  
Tal. Pandharpur, Dist. Solapur.

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**... Defendants**

**2. Ranjana Tanaji Bhakare**

Age : 55 years, Occ. : Agri. & Household,  
R/o : Ranzani, Tal. Pandharpur, Dist. Solapur.

**Suit for Partition & Injunction.**

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Advocate for Plaintiff

: Mr. V.K.Jadhav.

Advocate for Defendants

: Mr. B.A.Bahirat.  
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**J U D G M E N T**

**( Delivered on 24<sup>th</sup> Day of March, 2026 )**

This is the suit for partition and perpetual injunction against the defendants.

**2. Brief facts of the case is as follows.**

It is the case of plaintiff that the agricultural land bearing Gat No.177/6 admeasuring 00H:80R situated at village Shetphal, Tal. Pandharpur, Dist. Solapur is the subject matter of the suit. (Hereinafter this property is referred as '**the suit property**' for the sake of brevity and convenience).

**3.** The defendants are brother and sister of each other. The plaintiff is wife of deceased brother of defendants namely Nivrutti Narhari Kashid. The suit property was originally owned and possessed by mother-in-law of plaintiff namely Sulochana Narhari Kashid. The defendants and husband of plaintiff are the legal heirs of her. The marriage of plaintiff and Nivrutti was solemnized on 22.12.1986. After two years of marriage, on 30.11.1988 Nivrutti has deceased. The plaintiff, being wife of deceased Nivrutti, has right and interest in the suit property. She has 1/3<sup>rd</sup> share in the suit property. The plaintiff and defendants are Hindu joint family and till today partition is not effected.

**4.** Sulochana Narhari Kashid died on 23.11.2013. After her death, defendants with their ill-intention filed application for mutating their names to revenue record of the suit property. After getting information, the plaintiff has objected the said application. The defendants are trying to sell the suit property. Therefore, on 28.02.2019 plaintiff demanded her 1/3<sup>rd</sup> share in the suit property. But, defendants refused to give her share from the suit property. Therefore, plaintiff has filed the present suit.

5. Defendants appeared through their learned Advocate and filed their written statement vide Exh.12. They opposed all pleadings of the plaintiff. They submitted that plaintiff is not the wife of deceased Nivrutti. Defendants have not tried to sell the suit property. There is no cause of action arose to file the present suit. The suit property is inherited by deceased Sulochana through her maternal side. Nivrutti is deceased during lifetime of Sulochana. As per Section 14 of the Hindu Succession Act (*Hereinafter this Act referred as 'the Act' for the sake of brevity and convenience*), the property inherited by Hindu woman is her absolute property. In her lifetime the heirs have no interest in the property. As per Section 15 of the Act, after death of Sulochana her son and daughter will have right in the suit property. The daughter-in-law of pre-deceased son does not fall within the ambit of Section 15 of the Act. Therefore, they prayed to reject the suit.

6. After pleadings of the parties, my learned predecessor framed issues in the matter below Exh.14 on 19.04.2022. Considering pleadings and evidence led by both parties, findings against each of the issues are recorded alongwith reasons as follows :-

Sr.No.	ISSUES	FINDINGS
1.	Does plaintiff prove that the suit property is Hindu joint family property of plaintiff and defendants?	<b>Negative.</b>
2.	Does plaintiff prove that she has 1/3 <sup>rd</sup> share in the suit property?	<b>Negative.</b>

Sr.No.	ISSUES	FINDINGS
3.	Whether plaintiff is entitled for partition and separate possession of suit property as prayed?	<b>Negative.</b>
4.	Whether plaintiff is entitled for declaration of her 1/3 <sup>rd</sup> share in suit property?	<b>Negative.</b>
5.	Whether plaintiff is entitled for relief of perpetual injunction as prayed?	<b>Negative.</b>
6.	What order and decree ?	<b>As per final order.</b>

**-: REASONS :-**

7. Plaintiff has led following oral evidence :-

Sr. No.	Witness	Name	Description	Exh.
1.	PW1	Mandodari Nivrutti Kashid	Plaintiff	26

The Plaintiff has led following documentary evidence :-

Sr. No.	Exhibit	Description	Date
1.	29	7/12 extract of Gat No.177/6	--
2.	30	Certified copy of ME No.659	--
3.	31	Death certificate of Sulochana Kashid	01.04.2014
4.	32	Death certificate of Nivrutti Kashid	02.12.2015
5.	33	Marriage Registration Certificate of Nivrutti Kashid and plaintiff	25.11.2015
6.	34	Marriage Registration Certificate of Audumbar Kashid	25.11.2015
7.	35	Certified coy of ME No.3916	30.08.2014

Plaintiff closed her evidence by filing pursis vide Exh.46.

8. Defendants have not led any oral evidence and filed evidence close pursis vide Exh.48.

**ISSUE No. 1 :-**

9. It is the case of plaintiff that suit property was owned by deceased Sulochana Narhari Kashid. She is mother-in-law of plaintiff. Plaintiff has filed ME No.659 (Exh.30) wherein it is evident that Gopal Damu Gangthade partitioned his property between his heirs. Deceased Sulochana is one of the heir and thereby she received suit property in partition. During cross-examination plaintiff has admitted that suit property was received by Sulochana from her father namely Damu Gangthade. Thus, admittedly from the pleadings and evidence by the plaintiff it is explicitly clear that suit property was inherited by deceased Sulochana from her father after partition.

10. As per Section 14 of Hindu Succession Act, any property possessed by a female Hindu, whether acquired before or after the commencement of this Act, shall be held by her as full owner thereof and not as a limited owner. In explanation provided under this Section it is made clear that "property" includes both movable and immovable property acquired by female Hindu by inheritance or devise, or at a partition, or in lieu of maintenance, etc. Therefore, the property acquired by female Hindu after partition is her absolute property. The succession of property of female Hindu dying intestate has been provided under Section 15 of the Act separately. As per provision under Section 6 of the Act, devolution of interest amongst co-parceners has been provided. Who will be co-parcener is also

provided therein. In Hindu law, property inherited from male member who is included in the definition of co-parcener, forms joint Hindu family. Property held by such joint Hindu family is termed as Hindu family property. Such property is entitled for partition. The property held by female Hindu does not come within the ambit of co-parcenary property and therefore, it is not the property of joint Hindu family. The plaintiff has not brought any evidence on the record to show that property held by deceased Sulochana was put in common hotch-potch of the family. Therefore, in absence of any such evidence, the property held by Hindu female is her absolute property and it is not the joint Hindu family property. Therefore, plaintiff has failed to prove this fact and therefore, **issue No. 1 is answered in the negative.**

#### **ISSUES No. 2 TO 4 :-**

11. Plaintiff has claimed that she has 1/3<sup>rd</sup> undivided share in the suit property and therefore, she is entitled for that 1/3<sup>rd</sup> share and she can claim partition in it. As discussed above the suit property is not joint Hindu family property. It is the absolute property of deceased Sulochana. Admittedly, plaintiff is the widow of pre-deceased son of deceased Sulochana. Plaintiff has admitted during her cross-examination that Sulochana died on 25.10.2013. Her death certificate is at Exh.31. As per death certificate of Nivrutti Narhari Kashid (Exh.32), he died on 30.11.1988. Thus, on the day of death of Sulochana, Nivrutti was not alive. He had died during her lifetime. Plaintiff has admitted the suggestion that when Sulochana died, defendants No.1 and 2 who are her children were alive. She has

further admitted that she has no child begotten from deceased Nivrutti. Thus, at the time of death of Sulochana, the husband of plaintiff was pre-deceased and she had no children out of said wedlock.

**12.** In answer to issue No.1 it is held that suit property is not joint Hindu family property. It is absolute property of deceased Sulochana. It is admitted fact that Sulochana died intestate. Therefore, succession in case of deceased Sulochana will be governed by provisions under Section 15 of Hindu Succession Act as follows :-

- (1) The property of a female Hindu dying intestate shall devolve according to the rules set out in section 16, --
  - (a) firstly, upon the sons and daughters (including the children of any pre-deceased son or daughter) and the husband;
  - (b) secondly, upon the heirs of the husband;
  - (c) thirdly, upon the mother and father;
  - (d) fourthly, upon the heirs of the father; and
  - (e) lastly, upon the heirs of the mother.

This provision has set out the class of heirs in succession. However, the order of succession and manner of distribution amongst of heirs of female Hindu is provided under Section 16 of the said Act. As per rule 1 among the heirs specified in sub-section 1 of Section 15, those in one entry shall be preferred to those in succeeding entry, and those included in the same entry shall take simultaneously. Therefore, if heirs in first entry are present, they will be preferred to those in succeeding entry and they will take simultaneously. In the present case Section 15(1)(a) of the Act, provides that firstly the

property of female Hindu dying intestate will devolve upon the sons and daughters (including the children of any pre-deceased son or daughter) and the husband. Secondly, it will devolve upon the heirs of husband.

13. It is admitted fact on the record that defendant No.1 is son and defendant No.2 is daughter of deceased Sulochana. Her husband has died prior to her. Therefore, heirs in the first entry were alive at the time of death of Sulochana. This entry does not include widow of pre-deceased son. Therefore, plaintiff who is widow of pre-deceased Nivrutti does not come within ambit of first entry. However, if heirs in first entry are alive, the property of deceased Sulochana will devolve upon them firstly.

14. The Advocate for the plaintiff argued that the plaintiff is widow of pre-deceased son. She is heir of husband of deceased Sulochana. She falls in second entry i.e. in Section 15(1)(b) of the Act. Therefore, she also has right to seek share in the property of deceased Sulochana. He relied on judgment of Hon'ble Supreme Court in Seethalakshmi Ammal Vs. Muthuvenkatarama Iyengar & Another in Civil Appeal No.1944 of 1998 dated 03.04.1998. In the cited case widow of pre-deceased son was held as a heir of deceased female Hindu for succession. However, after reading entire text of the judgment, it is clear that the female Hindu therein had no son or daughter other than the husband of claimant. Though husband of claimant was pre-deceased to deceased female Hindu, the claimant was considered as the heir of husband falling in second entry under

Section 15 (1)(b) of the Act. It is held that the status of heir must be determined at the time of death of female whose heirs are being ascertained and not at the time of death of her husband. However, in the case in hand the deceased female had son and daughter and therefore, the property of deceased female will devolve upon heirs of first entry as per Section 16(Rule 1) of the Act. Thus, the cited case is not applicable to the present case as the facts are completely different and therefore, the order of succession is different.

**15.** The property of female Hindu namely Sulochana died intestate will devolve upon her son and daughter i.e. defendants firstly and they will take simultaneous share in the said property, the plaintiff who is widow of pre-deceased son, does not have any share in the suit property. She has no children begotten from Nivrutti prior to death of Sulochana. Therefore, she cannot claim through her children also, who would have fallen in the ambit of first entry under Section 15(1)(a) of the Act. Thus, the plaintiff being not one of the first heir in order of succession among heirs of female Hindu, she has no right and share in the suit property. Accordingly, plaintiff does not have 1/3rd share and she cannot claim partition of the suit property. Plaintiff has failed to establish the fact that she is heir of deceased Sulochana and has 1/3rd undivided share in the suit property. Therefore, no question arises of partition and separation of her share from the suit property. **Accordingly, issues No.2 to 4 are answered in the negative.**

**ISSUE No.5 :-**

**16.** Plaintiff has failed to prove that suit property is joint Hindu

family property and she has any share in it. Therefore, plaintiff cannot claim any right, title or interest in the suit property. Thus, plaintiff is not entitled to seek relief of injunction against defendants to protect her right in the suit property. When plaintiff has no right in the property, no question arises of restraining defendants who are heirs of deceased Sulochana. Thus, plaintiff is not entitled for relief of prohibitory injunction as prayed. **Accordingly, issue No.5 is answered in the negative.**

**ISSUE No.6 :-**

17. In view of findings given below issues No. 1 to 5, the Plaintiff has failed to prove her claim against defendants. Thus, she is not entitled for any relief prayed. The present suit is filed clearly in contravention of settled legal provisions and thereby defendants have been dragged into the Court. Therefore, plaintiff is liable to bear the costs of the proceeding. Accordingly, issue No.6 is answered as follows.

**ORDER**

1. The suit is rejected.
2. Plaintiff shall bear the costs of the proceeding.
3. Decree be drawn up accordingly.

**Pandharpur.**  
**Date : 24.03.2026.**

**(Smt. S.S.Raul)**  
**Jt. Civil Judge, Junior Division,**  
**Pandharpur, Dist.- Solapur.**

Certificate

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

Name of Stenographer	:-	D.S.Landage (Grade-III)
Court	:-	Jt. Civil Court,J.D., Pandharpur.
Date	:-	24.03.2026.
Judgment/Order signed by the Presiding Officer	:-	24.03.2026.
Judgment/Order uploaded on	:-	24.03.2026.