

MHSO070009642014	Received on	:	31.12.2014
	Registered on	:	02.01.2015
	Decided on	:	07.08.2026
	Duration	:	YY MM DD
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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. 13/2015

Exh.No. A/92

Mandabai Rausaheb Kambale
Age : 50 Years, Occ. : Labour,
R/o : Nandore, Tal. Pandharpur,
Dist. Solapur.

} Plaintiff

:: VERSUS ::

1. **Prabhu Dagadu Dhavale**
Age : 60 years, Occ. : Agriculturist,
2. **Jalindar Prabhu Dhavale**
Age : 40 years, Occ. : Agriculturist,
3. **Mahadev Prabhu Dhavale**
Age : 32 years, Occ. : Agriculturist,
4. **Pandurang Prabhu Dhavale**
Age : 30 years, Occ. : Agriculturist,
Defendants No.1 to 4 R/o : Bhatumbare,
Ekhaspur Road, Shinde Wasti,
Tal. Pandharpur, Dist. Solapur.
5. **Bhimrao Shivdas Jagtap**
Age : 56 years, Occ. : Agriculturist,

} Defendants

6. Sanjay Shankar Duke**Through – Bhimrao Shivdas Jagtap**Age : 40 Years, Occ. : Agriculturist,
Defendants No.5 & 6 R/o : Bhatumbare,
(Near Dhere Paduka), Dange Wasti,
Tal. Pandharpur, Dist. Solapur.

... Defendants

7. Kondabai Bhau KambaleAge : 52 Years, Occ. : Agri. & Labour,
R/o : Nandore, Tal. Pandharpur, Dist. Solapur.**Suit for Partition and Mesne Profits.**

Advocate for Plaintiff : Mr. N.D.Shinde.
 Advocate for Defendants No. 1, 3 and 4 : Mr. B.S.Thorat.
 Advocate for Defendant No. 2 : Mr. K.M.Kengar.
 Advocate for Defendant No. 7 : Mr. B.B.Bochare.
 Suit proceeded Ex-parte against Defendants No.5 and 6.

J U D G M E N T**(Delivered on 07th Day of August, 2026)**

This is the suit for partition and mesne profits.

2. Brief facts of the case is as follows.

The agricultural properties situated at village Bhatumbare, Tal. Pandharpur, Dist. Solapur which are described as follows.

Sr.No.	Gat No.	Area	Boundaries			
			East	South	West	North
A.	106/2/2	2H-86R	Canal & Gat No. 106	Gat No. 110 & 109	Road	Gat No. 105
B.	106/2/3	1H-23R Potkharaba 0.11R. (Except 80R land from east side)	Gat No. 127 & 129	Gat No. 108 & 107	Gat No. 106 & Canal	Gat No. 106

These properties are subject matter of dispute. (Hereinafter referred as '**suit property A and B**' for the sake of brevity and convenience).

3. It is the case of Plaintiff that Defendant No.1 is her brother and defendant No.7 is her sister. Defendants No.2 to 4 are son of Defendant No.1. The original Gat number of suit properties is Gat No.106. The suit properties are owned and possessed by father of Plaintiff and Defendants No.1 and 7 namely Dagadu. After death of their father, Plaintiff, Defendants No.1 and 7 and their mother were legal representatives. But, Defendant No.1 in collusion with revenue officers mutated his name alone to original suit property bearing Gat No.106. Plaintiff got this knowledge and she found that Defendant No.1 has mutated only his name to suit property and sold some portion out of it. Plaintiff demanded her share in the month of October 2014. At that time Defendant No.1 assured her to give her share but avoided it. Therefore, she sent notice to Defendants No.1 to 4. The Defendants No.1 and 4 received notice, but have not replied. Defendants No.2 and 3 have replied her notice and consented to give her share. But, Plaintiff is having apprehension that they will not give her share and they are going to sell their share. Defendant No.1 has sold part of original property to Defendants No.5 and 6. Therefore, they are made party. Accordingly, Plaintiff has filed the present suit seeking relief of partition of her $1/3^{\text{rd}}$ share and mesne profits.

4. The Defendant No.2 and 3 appeared through their learned Advocate and filed written statement vide Exh. 18. They

admitted all contentions made by Plaintiff and supported the claim of Plaintiff. They prayed to decree the suit. Further, they prayed to partition their share as well as Plaintiff's share in the suit properties. However, Defendant No.3 later on filed contested written statement and denied the suit of Plaintiff. He stated that he was misled to file this written statement.

5. The Defendants No.1, 3 and 4 appeared through their learned Advocate and filed their written statement vide Exh.60. Defendant No.7 who was previously added as Plaintiff No.1, was transposed and filed written statement at Exh.87. All these Defendants have filed similar defence. They denied all allegations made against them. It is submitted that their father died in the year 1959. Their grand-father namely Bapu has two sons namely Dagadu and Krishna. After death of Dagadu, name of Defendant No.1 is mutated as legal representatives. However, he was minor at that time in the year 1960. As his uncle Krishna had no children, his share was received by Defendant No.1 by inheritance.

6. In Gat No.106 five acre land was acquired by State Government for Ujani Damn in the year 1986. Therefore, only 7.5 acre land remained with Defendant No.1. Out of this land 81R land was sold to brother-in-law of Plaintiff on 14.07.1983. Later on 3 acre land was sold to Jagtap family. These sales are made out of necessity to develop the agricultural property of Gat No.106. Defendant No.1 was in need of money to dig Well in Gat No.106. Thus, the property was sold. It is submitted that education of Plaintiff's husband namely Raosaheb Kambale is done by Defendant No.1. He bore all these

expenses out of income obtained from selling land of Gat No.106.

7. Defendant No.2 is son-in-law of Plaintiff. Therefore, he supported Plaintiff who is his mother-in-law as per instructions of his wife. Present Plaintiff is quarrelsome and she also instigated defendant No.7 to file present suit and to file complaint before Tahsildar in respect of mutation entries about suit properties. The name of Defendant No.1 was mutated in the year 1960 till filing of this suit, Plaintiff never complained about it. In the year 1995 Defendant No.1 partitioned his property amongst his sons i.e. Defendants No.2 to 4. After this partition was occurred Plaintiff married her daughter to defendant No.2. Thus, she had knowledge about all the activities of Defendant No.1. In spite of that she choose to complained belatedly by filing this suit. Suit is frivolous and liable to be rejected.

8. Against Defendants No. 5 and 6 suit is proceeded ex-parte by order below Exh.1 dated 07.08.2015.

9. After pleadings of the parties, issues framed in the matter below Exh.21. Considering pleadings, evidence led by both parties, findings against each of the issues are recorded alongwith reasons as follows :-

<u>Sr.No.</u>	<u>ISSUES</u>	<u>FINDINGS</u>
1.	Does the Plaintiff prove that suit properties are joint family properties and ancestral properties?	Affirmative.

<u>Sr.No.</u>	<u>ISSUES</u>	<u>FINDINGS</u>
2.	Do the Defendants No. 1, 3 and 4 prove that Defendant No.1 sold part of joint family property for family necessity?	Affirmative.
3.	Do the Defendants No.1, 3, 4 and 7 prove that partition has been previously effected about joint family property?	Affirmative.
4.	Does the Plaintiff prove that she has undivided share and interest in the suit properties?	Affirmative.
5.	Whether Plaintiff is entitled for relief of partition of suit properties by metes and bounds? If yes, what is share of each party?	Affirmative.
6.	Whether Plaintiff is entitled for mesne profit since filing of suit?	Negative.
7.	What order and decree ?	As per final order.

:- REASONS :-

10. Plaintiff has led following oral evidence :-

Sr. No.	Witness	Name	Description	Exh.
1.	PW1	Mandabai Raosaheb Kambale	Plaintiff	27
2.	PW2	Haibati Sagar Dhavale	Witness	49

The Plaintiff has led following documentary evidence :-

Sr. No.	Exhibit	Description	Date
1.	30	Office copy of notice issued to Defendants No.1 to 4	27.10.2014.
2.	31 to 34	Postal acknowledgments	--
3.	35	Reply to notice	17.11.2014
4.	36	Certified copy of extract of heir register	--

Sr. No.	Exhibit	Description	Date
		after death of Dagadu Bapu Dhavale.	
5.	37	Certified copy of extract of Death Register of year 1959 of Village Narayan Chincholi	--
6.	38	Certified copy of ME No.975	--
7.	39	Office copy of complaint filed by Plaintiff to Collector, Solapur	27.10.2015
8.	40 to 42	Postal acknowledgments	--
9.	43	Letter issued by S.D.O.Pandharpur to Tahsildar Pandharpur	07.11.2015
10.	44	Letter issued by Collector Office Solapur to Tahsildar Pandharpur	31.10.2025
11.	45	7/12 extract of Gat No.106/2/2	--
12.	46	7/12 extract of Gat No.106/2/3	--

Plaintiff has closed his evidence by filling pursis vide Exh.61 and 80.

11. Defendants have led following oral evidence :-

Sr. No.	Witness	Name	Description	Exh.
1.	DW1	Prabhu Dagadu Dhavale	Defendant No.1	67
2.	DW2	Hanmant Nagnath Bansode	Witness	71
3.	DW3	Dalubai Mahadev Mane	Witness	72
4.	DW4	Pandurang Dnyanoba Sarwade	Witness	73

The evidence of Defendants is closed by passing order below Exh.1 dated 16.12.2025.

12. Heard Advocate for the Plaintiff towards final argument. Advocate for Defendants No.1, 3 and 4 remained absent and therefore, suit is proceeded without their oral argument by order dated 01.07.2026.

ISSUE No. 1 :-

13. The Plaintiff pleaded that suit property A and B are joint family and ancestral properties. After death of her father name of Defendant No.1 was mutated to 7/12 extract alone. Names of two daughters including Plaintiff and defendant No.7 were not mutated. The Plaintiff has filed death register extract (Exh.37) whereby Dagadu Bapu Dhavale is reported to have deceased in village Narayan Chincholi on 16.12.1959. Thereafter, extract of heir register of Talathi Office is produced (Exh.36), whereby after death of Dagadu Bapu Dhavale on 16.12.1959 name of Defendant No.1 is mutated as heir alone. It is registered that Prabhu Dagadu Dhavale, age 15 years is son of deceased. His name is mutated through natural guardian i.e. his mother Bhagubai Dagadu Dhavale. Entry is sanctioned on 12.11.1960. ME No.975 (Exh.38) shows that due to death of Dagadu Bapu Dhavale name of Defendant No.1 is mutated to Survey No.46/1/A situated in village Bhatumbare. Plaintiff has also produced 7/12 extracts of suit properties. For suit property A, 7/12 extract shows names of Defendants No.2 to 4 (Exh.45) and for suit property B, 7/12 extract shows names of Defendants No.1, 5 and 6 (Exh.46). Defendants No.5 and 6 are owner of 40R land each situated on east side out of total land of 1H:23R with potkharaba 11R. The Plaintiff has not included land owned by Defendants No.5 and 6 and therefore, the land owned by Defendant No.1 i.e. 54R is the subject matter of the present dispute.

14. The Plaintiff pleaded that both suit properties are ancestral properties received from their father namely Dagadu.

Defendants have admitted that suit property A is received from their father but, they categorically denied that suit property B is their ancestral property. Defendant No.1 pleaded that this suit property is received by him from his uncle Krishna. During cross-examination Plaintiff stated that for suit property B she has filed documents on the record to show that it is ancestral property. However, after perusal of documentary evidence, no such evidence is found. She deposed during cross-examination that original land owned by her father Dagadu was 20 Acre 22R. She denied that Krishna is brother of her father. She also denied the suggestion that share of Krishna was received by Defendant No.1 but, stated that share of Krishna was received by her father. However, she has not filed any document on record and admitted that. She denied that her father and Krishna received each 10 Acre 11R land.

15. She admitted the suggestion that land owned by Plaintiff was transferred in the name of Defendant No.1 when he was minor. She also admitted that in Ujani Dam Project their five acre land was acquired and thereafter remaining land was partitioned by Defendant No.1 amongst his three children. She denied that in land received by Defendant No.1 from Krishna, he proposed to dig Well and the work was given to her brother-in-law. However, she further admitted the suggestion that two acre land was sold by Defendant No.1 to her brother-in-law to complete work of Well. Her brother-in-law died and left the work of Well incomplete. She further admitted that Defendant No.1 again sold 3 acre land and completed work of Well and lay down pipeline. She admitted that before complaining to

Revenue Authorities, she had never given any complaint to any authority. She further denied the cause of action mentioned in the plaint that she demanded partition in October-2014.

16. Plaintiff's witness denied that Dagadu had brother namely Krishna. But he admitted that when Plaintiff and Defendant No.1 were minor, their father Dagadu was deceased. He has not seen 7/12 extracts. He has no knowledge whether Defendant No.1 was minor when his name was mutated to 7/12 extract. He further admitted that he has no cordial relations with Defendant No.1. On the other hand, while cross-examining DW2 and DW3, they admitted the suggestion that share of Krishna is received by Defendant No.1.

17. While cross-examining Defendant No.1, he admitted the suggestion that original Gat No.106 is ancestral property. He admitted that while selling part of it to Defendants No.5 and 6 he has not obtained consent from his sisters. He admitted that after death of his father Dagadu only his name is mutated to revenue record. Names of his sisters and mother were not mutated and he has not given information about it. He admitted the suggestion that earlier survey number of Gat No.106 is 46/1A. He admitted that in the year 1959 while partitioning the property amongst his children, he has not obtained consent from his sisters. DW1 and other witnesses have deposed mainly on the point that marriage of Plaintiff was executed through expenses of Defendant No.1 and his name alone is mutated to suit property A when he was minor, thus Plaintiff has no share in the suit property.

18. Defendant No.1 has admitted that original Survey number of Gat No.106 was 46/1A. Thus, the entries at Exh.36 and 38 are in respect of Gat No.106. The area of Gat No.106 is not mentioned in these documents. It is the case of Defendants that their uncle Krishna died prior to their father in the year 1956. Their father died in the year 1959. After death of Krishna, his share in Gat No.106 was received by Defendant No.1 as inheritance. However, when Krishna died in the year 1956, the father of Plaintiff and Defendants No.1 and 7 were alive till 1959. Therefore, even though Krishna died without having any legal representative, his brother being alive, the son of brother i.e. Defendant No.1 is not first in line of inheritance. It is not the case of Defendant No.1 that he received share of Krishna by way of gift or Will. Therefore, this theory of Defendant No.1 is not tenable. It is admitted fact on record that Gat No.106 is the ancestral property. After death of their father Dagadu name of only Defendant No.1 is mutated. Defendant No.1 himself admitted that names of his sisters and mother were not mutated. Therefore, after death of father, Plaintiff as his daughter will get share in the Gat No.106.

19. The Plaintiff has not produced any separate evidence to show that suit property B is ancestral property. However, it is the case of Defendant No.1 that suit property B was earlier part of Gat No.106 which was partitioned between his father Dagadu and uncle Krishna. After death of Krishna, Defendant No.1 received suit property B as inheritance. When other legal representatives of Dagadu were alive and present, only one heir i.e. Defendant No.1 cannot receive any

property which was part of ancestral property from deceased uncle. As discussed above, he has not received suit property B through gift or Will. Thus, by applying law of inheritance for Hindu family, Dagadu who was alive at the time of death of Krishna in the year 1956, Defendant No.1 has no chance to receive suit property B through inheritance. Thus, the deposition of Plaintiff that after death of Krishna his share was received by their father is found to be probable. In civil proceeding the evidence is evaluated on the basis of preponderance of probabilities. Therefore, the probability pleaded and deposed by Plaintiff is more plausible than the theory laid down by Defendant No.1. Therefore, the suit property B is also proved to be ancestral property. Accordingly, both suit properties A and B are proved by Plaintiff to be ancestral properties. Accordingly, **issue No. 1 is answered in the affirmative.**

ISSUE No.2 :-

20. It is pleaded by Defendant No.1 that he sold part of suit property to Defendants No.5 and 6 for legal family necessity. He pleaded that to develop suit properties itself and to dig Well into it, he was required to sale 81R land to Kundalik Kambale, Bhima Kambale and Dharma Kambale. However, during pendency of construction of Well, Bhimrao Kambale died due to dog-bite and therefore, work remained incomplete. Therefore, further he sold another land to Jagtap family. These facts are admitted by Plaintiff during cross-examination. She admitted that the work of digging Well was given to her brother-in-law Bhimrao and he died by leaving the work incomplete. She further admitted that Defendant No.1 sold another portion of land to complete the work of Well and he also laid

down pipeline. Plaintiff has also admitted acquisition of portion of land for Ujani Dam Project. Therefore, the facts pleaded by Defendant No.1 about selling portion of suit property for family necessity is admitted by Plaintiff. Thus, facts admitted need not be proved by leading separate evidence. The burden to prove fact about family legal necessity is upon the party who has sold such portion of ancestral property. Accordingly, Defendant No.1 has discharged the burden put upon him. **Accordingly, issue No.2 is answered in the affirmative.**

ISSUES No.3 :-

21. It is pleaded by Defendants that in the year 1995 they have partitioned suit property between Defendants No.2 to 4. The Plaintiff has also admitted this fact and thereby she has added Defendants No.2 to 4 in the present suit as suit property A is transferred in their name. However, this partition has not occurred between Plaintiff, Defendants No.1 and 7. Thus, the suit properties inherited from the deceased father Dagadu are not partitioned amongst existing Plaintiff and Defendants No.1 and 7. Therefore, the partition as executed in the year 1995 has been established but there is no previous partition amongst Plaintiff and Defendants No.1 and 7. **Accordingly, issues No. 3 is answered in the affirmative.**

ISSUE No.4 :-

22. The Plaintiff pleaded that she is daughter of deceased Dagadu. This fact is not denied by any defendant. Relationship between parties is not disputed. Defendant No.1 has also admitted the suggestion that Plaintiff Mandabai is his sister. At the time when

his name was mutated to suit property, names of his sisters i.e. Plaintiff and defendant No.7 alongwith their mother were not mutated. In the year 1960 he was minor and thereafter, he has not prayed to mutate names of his sisters on 7/12 extract of suit properties. He denied to partition suit properties with his sisters. However, he has not denied that Plaintiff has undivided interest and right in the suit properties. Plaintiff has proved that suit properties are ancestral properties. It is settled principle of law that after death of father irrespective of the fact whether daughter is married or not, she has co-parcenary rights in the ancestral and joint family property. In the present case Defendant No.1 admitted that suit property had original Gat No.106 with Survey No.46/1A. As discussed above, after death of their father Dagadu name of only Defendant No.1 was mutated and no rights were given to Plaintiff and defendant No.7.

23. After death of Dagadu all his legal representatives should have succeeded to claim right in the suit properties. However, only Defendant No.1 acquired the rights as legal representative. As discussed above suit property B is allegedly received by Defendant No.1. This theory is not plausible and therefore, suit property B is also subject matter of present dispute. Plaintiff proved that both properties are ancestral properties. Therefore, as valid legal representative to deceased Dagadu, Plaintiff is entitled for undivided share and interest in the suit properties. **Accordingly, issue No.4 is answered in the affirmative.**

ISSUE No.5 :-

24. Plaintiff has proved that suit properties are ancestral

properties. She has undivided share and interest in the suit properties. She has demanded partition to Defendant No.1. However, he has denied the same. After appearing in the suit he denied the partition and contested the suit. During cross-examination he specifically denied to partition the suit properties. Therefore, Plaintiff being having undivided share and interest, she is entitled to the relief of partition in the suit properties by metes and bounds.

25. The Plaintiff has claimed to have $1/3^{\text{rd}}$ undivided share in the suit properties. Both parties have admitted that their father deceased Dagadu is the common predecessor. Defendant No.1 pleaded that he received suit property B from his deceased uncle Krishna by way of succession. However, this issue has been discussed above. When Krishna died in the year 1956 as per pleading of Defendant No.1 and Dagadu died in the year 1959, by surpassing Dagadu who was alive in the year 1956, suit property B cannot be inherited by Defendant No.1; who was minor at that time. Therefore, this theory of Defendant No.1 is not probable. However, Defendant No.1 has proved that he has sold 80R land from suit property B in favour of Defendants No.5 and 6 for legal necessity. This fact is admitted by Plaintiff and she has not demanded partition of this alienated part of suit property B. Plaintiff has specifically excluded 80R land on east side out of Gat No.106/2/3. Thus, Plaintiff is entitled to seek partition from suit property A and suit property B.

26. It is admitted fact that Plaintiff, Defendant No.1 and defendant No.7 are siblings. Their parents are no more alive.

Therefore, after death of their father namely Dagadu he is survived by Plaintiff, Defendants No.1 and 7. They all are his children. They belongs to Class I heir of Schedule I of the Hindu Succession Act. As deceased Dagadu died intestate, for the purpose of partition succession is to be considered as per Section 8 of Hindu Succession Act. Thus, Plaintiff, Defendants No.1 and 7 will get equal share. Therefore, they each will receive $1/3^{\text{rd}}$ share in the suit properties. Accordingly, Plaintiff is entitled for $1/3^{\text{rd}}$ share in the suit properties. **Hence, issue No.5 is answered in the affirmative.**

ISSUE No. 6:-

27. Plaintiff has also demanded mesne profits from the suit properties from the date of filing of suit till actual receipt of possession. However, their father was deceased in the year 1959. Since then on revenue record name of Defendant No.1 is recorded. Plaintiff pleaded that she had no knowledge about this fact. She pleaded that Defendant No.1 in collusion with revenue authorities mutated his name on 7/12 extract. However, after perusal of concerned entry, it is found that Defendant No.1 was 15 years old when the entry was mutated. Therefore, such allegation made by Plaintiff is not found to be probable and it is groundless. Moreover, Defendants have pleaded that both parties have married their children to each other. The families are well acquainted with each other. Thus, Plaintiff had knowledge about all these facts. The possession of suit property with Defendant No.1 is not illegal. It is simply the fact that Plaintiff did not objected mutation entry in the name of Defendant No.1 for all these years and demanded partition only in October 2014. Thus, she is not entitled for the relief of mesne

profits. Therefore, issue No.6 is answered in the negative.

ISSUE No.7 :-

28. In view of findings given below issues No. 1 to 5, the Plaintiff has established her claim. She is entitled for partition of suit properties by metes and bounds and entitled for separation of her 1/3rd share from suit properties. For reasons mentioned above, issue No.7 is answered as follows.

ORDER

1. The suit is partly decreed.
2. It is hereby declared that the Plaintiff, Defendant No.1 and 7 each have undivided 1/3rd share in suit properties A and B.
3. The Plaintiff is entitled for partition of above mentioned share by metes and bounds.
4. The decree be sent to the Collector as per section 54 of the Civil Procedure Code for effecting partition and separate possession of the suit properties in view of the declaration given above.
5. Decree be drawn up accordingly.
6. The parties shall bear their own costs.

(Dictated and pronounced in open court.)

Pandharpur.
Date : 07.08.2026.

(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	:- 07.08.2026.
Judgment/Order signed by the Presiding Officer	:- 07.08.2026.
Judgment/Order uploaded on	:- 07.08.2026.