

MH50130005382025



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Duration : 00Y 10M 15D

**IN THE COURT OF 4th JOINT CIVIL JUDGE, JUNIOR DIVISION BARSHI,
DISTRICT SOLAPUR**

(Presided over by Smt. Revati P. Bagade)

REGULAR CIVIL SUIT No. 443/2025

Exh. No.23

Vijaya Mahaling Swami,

Age- 60 Yrs. Occu.- Household,

R/o. Near Ganesh Temple, Bhusar Peth,

Mohol, Tal. Mohol, Dist. Solapur.

...Plaintiff

Versus

1) Siddheshwar Bhagwan Puranik,

Age- 66 Yrs. Occu.- Agri.,

R/o. Datta Nagar, Vairag,

Tal. Barshi, Dist. Solapur.

2) Nilkanth Bhagwan Puranik,

Age- 60 Yrs. Occu.- Agri.,

R/o. Datta Nagar, Vairag,

Tal. Barshi, Dist. Barshi.

2) Someshwar Bhagwan Puranik,

Age- 56 Yrs. Occu.- Agri.,

R/o. Old Post Office, Vairag,

Tal. Barshi, Dist. Barshi.

...Defendants

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Advocates' Appearance:

Smt. Shital Kakasaheb Gund for the plaintiff
Ex-parte for defendants No. 1 to 3.

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J U D G M E N T
(Delivered on 08th May 2026)

1. This is a suit for partition and separate possession.

DESCRIPTION OF THE SUIT PROPERTY:-

2. All that piece and parcel of the property situated Mauje Manegaon, Tal. Barshi, District Solapur bearing Gat No.33/3 admeasuring 01H 21R including a functional water well, along with all standing trees, shrubs, and appurtenant structures and bounded with on its east- Gat No.28, on the south- Vairag Shiv (village boundary), on the west- Gat No.34 and on the north- Gat no.23 and 24. (shall hereinafter as 'suit property').

CONTENTIONS OF THE PLAINTIFF:-

3. It is contended by the plaintiff that, the plaintiff and the defendant nos. 1 to 3 are biological brothers and sisters. Their parents are deceased. The plaintiffs and defendants constitute a Hindu Undivided Family (HUF). The suit property is their ancestral property, owned and possessed by all of them bearing names of the plaintiff and defendants jointly. No partition has taken place between the plaintiff and defendants till date. The plaintiff has 1/4th share in the suit property. The plaintiff intends to adopt modernized agricultural techniques in order to increase yield. However, the

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defendants, prefer traditional farming methods, and are obstructing the plaintiff's modern initiatives. This has led to the frequent disputes and mental agony. Thus, the plaintiff demanded partition and separate possession of her 1/4th share from the defendants, however, they denied. Hence, the present suit.

4. In spite of service of summons on defendant No.1 to 3 they failed to appear in the present suit. Hence, suit proceeded ex parte against them by passing order below Exh.01 on 28.07.2025.

5. Though issues have not been framed in the present matter, for complete and proper disposal, determination of following issues being essential, I have recorded my findings thereon with reasons as under:

<u>Sr. No.</u>	<u>ISSUES</u>	<u>FINDINGS</u>
1)	Does the plaintiff prove that suit property is the ancestral property of her and the defendant nos.1 to 3 ?	Yes.
2)	Is the plaintiff entitled to have the suit property partitioned? If yes, what would be respective share of the suit properties?	Yes, 1/4th share.
3)	What order and decree ?	As per final order.

-: EVIDENCE :-

6. The plaintiff in support of her case, has brought on record oral as well as documentary evidence. The plaintiff has examined herself

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i.e. PW1 Vijaya Mahaling Swami (Exh.07). She has also filed her additional chief-examination affidavit at Exh.21. The plaintiff has relied on following documents:

Sr. No.	Description of the document	Exhibit Nos.
1)	7/12 extract of suit property	Exh.08
2)	Death certificate of mother of the plaintiff and defendants	Exh.13
3)	Certified copy of mutation entry bearing No. 6913	Exh.14
4)	8A extract of the suit property	Exh.15

7. Said documents will be discussed at relevant point of discussion in the part of reasoning. By filing pursis at Exh.16, the plaintiff has closed his evidence. Heard Ld. Advocate for the plaintiff at length. Written arguments are also filed on behalf of the plaintiff.

- REASONS -

AS TO ISSUE NO.1 AND 2:

8. Both the issues being inter connected; in order to avoid reiteration of evidence, I deem it necessary to decide them together. Plaintiff is seeking partition of the suit property and claiming separate possession of her 1/4th share therein.

9. The PW1 i.e. plaintiff is her evidence affidavit has reiterated the contents of the plaint. It is stated that, the suit property is an ancestral property of the plaintiff and defendants. The suit property was originally owned by mother of plaintiff and defendants. On perusal of the 7/12 extract of suit property at Exh.08 and mutation entry No. 6913 in village extract No.6 at Exh.14, it appears that name of mother of the plaintiff and the defendants, Chandrakala Bhagawan Puranik was earlier entered as the owner and occupant of the suit property and after her death on 03/07/2021 names of the plaintiff and the defendant were entered on the suit property as her only surviving heirs. The plaintiff has also stated in her chief examination that the suit property was the self-acquired property of her mother and in support of this contention has also filed on record the certified copy of the sale deed vide which the suit property was purchased by the mother of defendant. However, as the said copy being secondary evidence is not duly proved, it is not read into evidence. The oral evidence of the plaintiff is not challenged by the defendants by way of cross-examination. Thus, there is nothing on record to disbelieve the contention of the plaintiff that the suit property was the self acquired property of their mother and after her death is now the ancestral property of the plaintiff and the defendants.

10. Further, as the property was originally owned by the mother of the plaintiff and defendants, section 15 of the Hindu Succession Act ('the Act') comes into picture as she appears to have died intestate. According to section 15, the suit property being the property of a

female Hindu who died intestate devolved firstly upon the sons and daughters and husband. In the present case names of the sons and daughter of the deceased, who are plaintiff and defendants have already entered upon the suit property. In the chief examination the plaintiff has stated that the father of plaintiff by name Bhagwan Puranik had predeceased their mother. This contention of the plaintiff is nowhere challenged by the defendants. Thus, it appears that the names of plaintiff and defendants who are only legal heirs of their mother are rightly entered on the record of the suit property. However, the extent of the respective share of the parties is yet to be determined. Section 15 of the Act also provided the property shall so devolve according to the rules set out in the section 16 of the Act. Sec 16 of the Act is reproduced below for ready reference-

“16. Order of succession and manner of distribution among heirs of a female Hindu.—

The order of succession among the heirs referred to in section 15 shall be, and the distribution of the intestates property among those heirs shall take place according to the following rules, namely:—

Rule 1.—Among the heirs specified in sub-section (1) of section 15, those in one entry shall be preferred to those in any succeeding entry and those included in the same entry shall take simultaneously.

Rule 2.—....

Rule 3.—....”

11. Thus, the perusal of the section 15 and 16 of the Act, it appears that the plaintiff and the defendants being heirs in the first entry and property being self-acquired property of the mother of plaintiff, after her death these heirs shall succeed simultaneously to the suit property equally to the exclusion of other heirs as per Section 16. Thus, their share in the suit property shall be equal. Thus, the plaintiff being one of the co-shares in the suit property along with the three defendant is entitled to the 1/4th share in the suit property. Therefore, in view of the above discussion and the findings, I have answered point No. 1 and 2 in the affirmative.

AS TO POINT NO.3:

12. In the backdrop of aforesaid reasons and findings to the issue Nos. 1 to 3, I am of the opinion that, the suit deserves to be decreed. Hence, I have recorded my findings accordingly and in response to point No.4, I proceed to pass the following order:

ORDER

- 1) The suit is decreed with costs.
- 2) It is hereby declared that the plaintiff and defendants are entitled to 1/4th share in the suit property situated at Mauje Manegaon, Tal. Barshi, District Solapur bearing Gat No.33/3 admeasuring 01H 21R including a functional water well, along with all standing trees, shrubs, and appurtenant structures.
- 3) Partition of suit property be effected equitably by the Collector or any Gazetted subordinate of the Collector deputed by him in this behalf in accordance with the above declaration of shares and in accordance with the

law for the time being in force relating to the partition, or the separate possession of shares, of the suit property and the plaintiff be delivered possession of the land of their share u/s. 54 of the Code of Civil Procedure accordingly.

4) Preliminary decree be drawn up accordingly.

(Pronounced in open Court).

Sd/-

(Smt. Revati P. Bagade)

4th Jt. Civil Judge, J.D.,
Barshi, Dist. Solapur.

Date : 08/05/2026

CERTIFICATE

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

(a)	Name of the Stenographer	:	S. V. Kokate (Grade III)
(b)	Court Name	:	Smt. Revati P. Bagade, 4 th Jt. Civil Judge, J.D.& J.M.F.C.Barshi
(c)	Judgment /Order signed by P.O. on	:	08/05/2026
(d)	Judgment /Order signed by P.O. on	:	08/05/2026
(e)	Judgment /Order uploaded on	:	08/05/2026