



**ORDER BELOW EXH.12**  
(Passed on 16<sup>th</sup> day of January 2026)

01. This is an application moved by the defendant under Section XI of the Code of Civil Procedure (for short CPC) along with Order VII R.10 of CPC and Section 16 of CPC. According to the defendant the plaintiff has filed the suit for partition and separate possession of suit property No.1 but, she had filed a suit bearing R.C.S. No.535/2015 before Civil Judge Junior Division, Solapur and this suit is beyond the jurisdiction of this Court and hence, the plaint has to be returned to be presented before the proper Court. The suit is also barred by the principle of res-judicata and hence, it is to be dismissed.

02. The plaintiffs filed their say at Exh.14 and opposed the application on the ground that, the application is not maintainable and the principle of res-judicata would not be applicable as the former suit is not decided yet by the Court on merits and there is no bar of jurisdiction to this suit thereby requiring return of plaint. They prayed for rejecting the application.

03. Perused the application, say thereon, notes of argument at Exh.15 and heard Ld. Advocates for the sides. Ld. Advocate for plaintiff relied upon the ratio laid down by Hon'ble Supreme Court of



India in Hanmanthappa and anothers Vs. Chandrashekharappa and others, reported in AIR 1997 SUPREME COURT 1307 and Shankarrao Dajisaheb Shinde (since deceased) by heirs Vs. Vitthalrao Ganpatrao Shinde and others reported in AIR 1989 SUPREME COURT 789 in support of their submissions. The plaint of R.C.S. No.535/2015 is on record and the suit property in this suit as well as the one in that suit are no doubt, identical. The said suit was returned to the plaintiff because the suit property was situated within the territorial jurisdiction of this Court. The said order was passed on 16/02/2016. There is no decision on merits and the issue directly and substantially present in this suit was not even decided and it cannot be said that, the former suit was heard and finally decided between the parties. In such circumstances, the question of res-judicata does not arise. The suit properties are situated within the jurisdiction of this Court and hence, there is no bar which could prevent this Court from exercising its power to deal and decide this suit. The application is devoid of merits and hence, it is rejected with costs.

Akkalkot  
Date: 16.01.2026

(M. M. Kalyankar)  
Civil Judge Jr. Dn., Akkalkot



**CERTIFICATE**

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

Name of the Stenographer : S.S.Mitragotri (Grade-III).  
Court : C.J.J.D. and J.M.F.C., Akkalkot.  
Date : 16/01/2026  
Judgment / Order signed by : 16/01/2026  
P. O. on  
Judgment / Order uploaded : 27/01/2026  
on