

COMMON ORDER BELOW EXH. 1 AND 28

IN

R.C.S.No. 300 of 2023

(Dada Kare Vs. Ramesh Godge)

On the last date, the arguments of both parties were completed. The present suit has been instituted for the relief of permanent injunction on the basis of title. It has come to light that both parties are claiming ownership over the suit property. The plaintiff has specifically averred in paragraph 2 of the plaint that the suit property originally belonged to Jamnabai and that after her demise, he inherited the same along with ownership and possession. Thus, the plaintiff claims possession on the basis of alleged ownership acquired by way of inheritance from Jamnabai.

2] On the other hand, the defendant has contended that he purchased the suit property from Jamnabai on 15.03.2005 through a registered sale deed. The defendant contended he is in the possession on the basis of ownership acquired through the said registered sale deed. Therefore, it is crystal clear that although the suit is instituted for the relief of permanent injunction, the issue pertaining to title is also involved in the present suit. My learned predecessor has framed issues below Exhibit 28 with regard to possession, obstruction, and entitlement to perpetual injunction. In the instant case, it is necessary to frame an additional issue pertaining to the title of the suit property. Since the plaintiff has asserted title, the burden lies upon him to prove that he is the owner of the suit property by way of alleged inheritance after the demise of Jamnabai. Therefore, it is essential to reproduce Order XIV Rule 5 of the Code of Civil Procedure.

5. Power to amend and strike out, issues.—

(1) The Court may at any time before passing a decree amend the issues or frame additional issues on such terms as it thinks fit, and all such amendments or additional issues as may be necessary for determining the matters in controversy between the parties shall be so made or framed.

(2) The Court may also, at any time before passing a decree, strike out any issues that appear to it to be wrongly framed or introduced.

3] In the present case, the issue of title goes to the root of the matter. Unless and until the issue of title is determined, the question of possession cannot be adjudicated on merits. Therefore, in the interest of justice, it is essential to frame an issue pertaining to the title of the suit property. The burden of proving this issue lies upon the plaintiff, who asserts that he is in possession of the suit property, having acquired the same through inheritance from Jamnabai. In the present suit, the plaintiff has denied the title of the defendant, and the defendant has likewise denied the title of the plaintiff. This clearly indicates that the title to the suit property is under a cloud. In such circumstances, it is necessary to frame an issue regarding title in order to determine the real controversy between the parties. Hence, the framing of an additional issue is essential.

"Whether plaintiff proves his ownership over the suit property after demise of Jamnabai ? "

Parties to take note.

Place : Karmala
Date : 30.03.2026

(S.M.Ghuge)
Civil Judge, Senior Division,
Karmala, Dist.Solapur

CERTIFICATE

I affirm that, the contents of the this P.D.F file Order/Judgment are same word to word, as per the original order/ judgment

Name of Stenographer : B.R.Kondekar
Court Name : Civil Court Senior Division, Karmala
Date : 30-03-2026

Order/Judgment signed
by the Presiding Officer on : 30-03-2026

Order uploaded on : 30-03-2026