



**ORDER BELOW EXH. 97 IN REG. CIVIL
SUIT NO. 54/2017.**

(CNR NO. MHWR-050016962017)

Shobhabai Tumane Vs. Devendra Kurekar & oth.

1. This is an application under Order 12 rule 6 of CPC for allowing the suit and passing preliminary decree as per the admitted fact by defendant No. 01, 2 a to 2 d, 4 and 5 in their written statement at Exh. 20 & 22.

2. It is contended that, plaintiff instituted suit for partition, possession and other reliefs. In respect to the suit property survey No. 10. Defendant No. 01 appeared and he contested the suit. He filed his written statment at Exh. 22. Defendant No. 01, in his written statement at page No. 3 Paragraph No. 19, he admitted the co-ownership of plaintiff, he is ready to give requisite share of co-ownership in the suit property. Defendant No. 2 A to 2 D, 4, 5 (i) to 5 (ii) filed their written statement at Exh. 20. They pleaded in paragraph No. 12 & 13 A. They admitted co-ownership of plaintiff and accepted that the suit property is ancestral agricultural land. Further, they admitted that, all plaintiff and defendants are co-shareres and co-owners of suit property. However, plaintiff prayed for passing of decree on an admission. Therefore, plaintiff prayed for allowing an application.

3. Defendants failed to file their say therefore, this court pleased to pass no say order against them. The said order remains as it is.

4. However, plaintiff relied on case law of Hon'ble Supreme Court reported in AIR 2010 SC 2077, in between Karam kapahi & others Vs. M/s Lalchand Public Charitable Trust & another, AIR 2000 SC 2740, in between Uttamsing Dugal & co. ltd. Vs. Union of India & another, case law of Hon'ble Bombay High Court reported in 2015 (2) Civil LJ 904 in between Minal Negam Vs. Ravi Karsi, case law of Hon'ble Andrapradesh High Court reported in AIR 2012 Andrapradesh 04, in between Tasty Hotel pvt. Ltd. Vs. Medisetty Jayasri & another,

5. Perused application, written statment of defendants and documents on record. Heard learned advocate at length.

6. Considering aforesaid mentioned facts and circumstances of case and on persual of record it appears that, plaintiff instituted suit for partition, separate possession and for cancellation of relinquishment deed dated 25-02-2009. Plaintiff instituted suit in respect to the suit property bearing Survey No. 10 admeasruing 7 H. 27 R situated at Aurangpur Tal. Samudrapur, Dist. Wardha. It is the contentions of plaintiff that, defendant No. 1 get executed release deed in his favour from Vinayak & Ramkrushna without obtaining the consent of 3 sisters. Defendant No. 1 contended in his written statement that Ramkrushna & Vinayak executed release deed bearing No. 378/2009 dated 25-02-2009. The fact whether Ramkrushna & Vinyak executed release deed

in favour of defendant No. 1 is legal or illegal is to be proved. Plaintiff prayed for 1/6 share in the suit property. The Ramkrushna & Vinayak are died. Unless and until the legality or illegality of release deed bearing No. 378/2009 dated 25-02-2009 is proved or disproved the share of plaintiff and defendants in the suit property could not be determined. The alleged admission of defendant No. 1 in paragraph No. 19 of his written statement at Exh. 22 is not specific. The contentions of defendant No. 1 in paragraph No. 19 of his written statement are usual in nature. It appears that issues are framed at Exh. 28 on 12-03-2019. It appears that, plaintiff has filed her evidence affidavit at Exh. 33. The further examination in chief of plaintiff is recorded. Plaintiff has examined witness named Priti Mahure on her behalf at Exh. 67. Plaintiff has filed her evidence close pursis at Exh. 73. Thereafter, plaintiff filed present application. However, considering aforesaid mentioned facts and circumstances the case laws mentioned above are not assisting to plaintiff at this stage. Therefore, this application deserve to be rejected at this stage. Hence, following order is passed.

Order

1. Application below Exh. 97 is hereby rejected.
2. Parties to take note.

Date: 14-07-2026
Samudrapur.

(P. L. Patil)
Civil Judge Junior Division, Samudrapur

CERTIFICATE

Certified that PDF copy of order is word to word identification to the original order.

(A.A.More)

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