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IN THE COURT OF PRINCIPAL DISTRICT JUDGE, WASHIM.
[Presided over by Anil Subramaniam]

Misc. Civil Appeal No. 10/2023
CNR No. MHWS010004872023

Exh. No. 35

	Bhikubai Rameshwar Khodave (Before marriage) Bhikubai @ Laxmibai Patale (After marriage), Aged about 82 years, Occu. Household, R/o. Thingaon, Tq. & Dist. Khargaon, Madhya Pradesh.	... Appellant.
<u>VERSUS</u>		
1)	Arjuna Govinda Khodave, Aged about 73 years, Occu. Agriculture, R/o. Railway station, Kothekarwadi, Washim, Dist. Washim.	
2)	Atmaram Aananda Khodave, Aged about 47 years, Occu. Agriculture,	
3)	Laxman Aananda Khodave, Aged about 37 years, Occu. Agriculture,	
4)	Datta Aananda Khodave, Aged about 31 years, Occu. Agriculture, 2 to 4 R/o. Shukrawar Peth, Washim,	
5)	Parashram Baliram Kute, Aged about 70 years, Occu. Agriculture,	
6)	Jagannath Parashram Kute, Aged about 23 years, Occu. Agriculture,	
7)	Rangnath Parashram Kute, Aged about 36 years, Occu. Agriculture, 5 to 7 R/o. Shukrawar Peth, Washim,	

8)	Santosh Pandurang Murkute, Aged about 40 years, Occu. Agriculture, R/o. Shukrawar Peth, Washim,	... Respondents.
9)	Shashikala Gajanan Mukhmale, Aged about 48 years, Occu. Agriculture, R/o. Kanzala, Tq. Mangrulpir, Dist. Washim.	
10)	Panchfula Santosh Gaikwad, Aged about 36 years, Occu. Agriculture, R/o. Kanzala, Tq. Mangrulpir, Dist. Washim.	
11)	Janabai Jagan Pawade, Aged about 36 years, Occu. Agriculture, R/o. Ukali, Tq. Mehkar, Dist. Buldhana.	
12)	Subhadrabai Govinda Khodave, Aged about 68 years, Occu. Agriculture, R/o. Kanzala, Tq. Mangrulpir, Dist. Washim.	
13)	Sumitrabai Ananda Khodave, Aged about 48 years, Occu. Agriculture, R/o. Shukrawar Peth, Washim,	
14)	Onkesh Prakash Bhise, Aged about 29 years, Occu. Agricultural, R/o. Shukrawar Peth, Washim,	
15)	Mahadeo Prakash Bhise, Aged about 32 years, Occu. Agricultural, R/o. Shukrawar Peth, Washim,	
16)	Geeta Dinesh Bhise, Aged about 28 years, Occu. Agricultural, R/o. Shukrawar Peth, Washim,	

APPEAL UNDER ORDER 43 RULE 1(r) R/W SECTION 151 OF CPC.

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Appearance:-

Mr. M. S. Gawai, Advocate for appellant.

Mr. S. R. Ingale, Advocate for respondent Nos. 1 to 5, 9, 10, 11, 12, 13.

Mr. S. K. Malas, Advocate for respondent Nos. 6 & 7, 14, 15, 16.

Mr. A. P. Pathan, Advocate for respondent No. 8.

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J U D G M E N T

(Dated 18/03/2026)

1. By the present appeal, the appellant is challenging the order passed by Ld. 3rd Jt. Civil Judge (Jr. Dn.), Washim in RCS No. 144/2021 dated 10/02/2023 below Exh. 8.
2. It is the case of the plaintiff that the suit property is ancestral property of the plaintiff and the plaintiff is living in Madhya Pradesh. The defendant No. 1 is son of younger sister of the plaintiff. The defendant No. 5 had filed petition before the Ld.Tahsildar and on that count, to appear before the Ld. Tenancy Court in Washim, Power of Attorney was executed in defendant No. 1. The Tenancy Court dismissed the petition of defendant No. 5. Taking disadvantage of plaintiff living in Madhya Pradesh and that mother tongue in Hindi, the defendant No. 1 hurriedly got executed power of attorney which includes power to right to sell. The power of attorney was not given for that purpose, but it was only to appear and represent before the tenancy proceedings. Taking disadvantage of such fraudulent power of attorney, sale-deeds have been executed in favour of defendant No. 8 and the same is not binding on the plaintiff and sale-deed is executed in favour of defendant No. 1 also. The plaintiff has undivided share in the property and prayed for the to hold that transactions executed on 23/06/2021 of the three sale-deeds is not binding on her share and decree for partition. Pending the suit, by interim application on similar counts, it is contended that defendants should restrain from not to alienate the suit property.
3. The said interim application was resisted by the defendant Nos. 1 to 4 and 9 to 13 contending that the suit property was under cultivation and possession of father of defendant No. 5 and by virtue of the registered

power of attorney, right of alienation was given. The plaintiff was paid consideration amount of Rs. 10 lakhs in July-2021 and she demanded additional consideration.

4. The defendant Nos. 5 to 7 contended that the entire suit claim is incorrect and by proper and valid power of attorney, sale-deeds have been executed.
5. After hearing both the parties, the Ld. Trial Court by the impugned order, rejected the application. Hence, the present appeal.
6. Heard both sides. Considered the submission advanced. Following points arise for my consideration and I answer the same as under for the reasons stated hereinafter.

Sr. No.	Points	Findings
1]	Whether the plaintiff has prima facie case ?	... In the Negative.
2]	Whether the irreparable loss would be caused to the plaintiff ?	... In the Negative.
3]	Whether balance of convenience lies in favour of plaintiff ?	... In the Negative.
4]	Whether the plaintiff is entitled for any reliefs ?	... In the Negative.
5]	Whether the impugned order requires any interference ?	.. In the Negative.
6]	What order ?	... As per final order.

REASONS

As to Point no. 1 :-

7. As regards prima facie case, the aspect of right of plaintiff's relationship as well as nature of property is not disputed. If one consider all this aspects, second part of execution of power of attorney which is

registered is also no disputed. The decision of the concerned authority or pendency of the proceedings is also not disputed. The execution of sale-deed is also not disputed. It is also not disputed that the sale-deeds with regard to the right of plaintiff are executed by utilizing said power of attorney. The aspect that has to be considered is that in such circumstances, tenancy proceedings were initiated in the year 2013 and 2014 and seen to have ended in the year 2017. The sale-deeds are seen to be executed in the year 2021. The execution of power of attorney is also apparently admitted. In such circumstances, what one has to consider is that there is registered power of attorney which shows right given for sale. The execution and existence of power of attorney is not disputed. The power of attorney is in subsistence since 2013. In such circumstances, it could be part of evidence as to what was intention when power of attorney was executed in the year 2013. At this prima facie stage, there is valid registered power of attorney. There are sale-deeds executed in exercise of powers of the said Power of attorney, and considering this aspect, right of the plaintiff is not clear or cannot be said to be prima facie clear in this regard. In such circumstances, the plaintiff cannot be said to be having prima facie case. Hence, I answer point No. 1 in the negative.

As to Point Nos. 2 & 3 -

8. Considering that the plaintiff herself has executed power of attorney and the proceedings ended in the year 2017 and further thereafter it still subsisted for long period and it is challenged only after alleged sale-deeds are executed, it is apparent that balance of convenience and irreparable loss does not lie in favour of the plaintiff. Suffice to say that any transaction pending suit may be considered as lis pendens as per

Law. It could be certainly subject to final adjudication of this proceedings. In such circumstances, I answer point Nos. 2 and 3 in the negative.

As to Point No. 4 -

9. In view of points Nos. 1, 2 and 3 in negative, the plaintiff is not entitled for any relief. Hence, I answer point No. 4 in the negative.

As to Point No. 5 -

10. Considering overall facts and circumstances of the case, the Ld. Trial Court has properly appreciated all the facts and circumstances in proper perspective and hence, it does not require any interference. Hence, I pass the following order -

ORDER

- 1] The appeal is hereby dismissed.
- 2] The order passed by Ld. 3rd Jt. Civil Judge (Jr. Dn.), Washim in RCS No. 144/2021 dated 10/02/2023 below Exh. 8 is hereby confirmed.
- 3] Inform to Ld. trial Court, accordingly.
- 4] R & P be returned to the trial Court as per rules.
- 5] No order as to costs.
- 6] Misc. Civil Appeal No. 10/2023 stands disposed off.

Washim
Date - 18/03/2026

(Anil Subramaniam)
Principal District Judge,
Washim.

CERTIFICATE

I affirm that the contents of this PDF file word to word are same as per original judgment/order.

Name of Stenographer	:	A. W. Ajmire, Steno (Grade II)
Court Name	:	Principal District & Sessions Judge, Washim.
Date of order/Judgment	:	18/03/2026
Judgment Dictated on	:	18/03/2026
Order/Judgment signed by Presiding Officer on	:	24/03/2026
Order/Judgment uploaded on	:	27/03/2026