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Presented on : 04/05/2023  
Registered on : 13/11/2024  
Decided on : 06/05/2026  
Duration : 01 Y, 05 M, 23 D.

**IN THE COURT OF DISTRICT JUDGE -1, WASHIM.**  
*(Presided over by J. P. Zapate)*

**Regular Civil Appeal No.42/2024**  
[CNR No.MHWS010012782024]

**Exh.12**

1. Eknath Laxman Khodake  
Aged about - 71 years Occu. Agriculture,
2. Kailash Eknath Khodake  
Aged about - 38 years Occu. Agriculture,
3. Gajanan Eknath Khodake  
Aged about - 36 years Occu. Agriculture,  
All R/o Dhodap Kh.  
Tq.Risod, Dist. Washim.

**... Appellants**

**VERSUS**

Narayan Ganpati Khodake  
Aged about - 84 years Occu. Agriculture,  
R/o Dhodap Kh.  
Tq.Risod, Dist. Washim.

**... Respondent**

**Appeal under Section 96 of the Code of Civil Procedure**

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Advocate Shri. R. A. Hiwrale for appellants  
Advocate Shri. A. A. Yeole for Respondent  
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**J U D G M E N T**

*(Delivered on 06<sup>th</sup> day of May, 2026)*

This is an appeal preferred under Section 96 r/w Order 41 of the Civil Procedure Code challenging the judgment and decree dtd,

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16/02/2023 in Regular Civil Suit No.53/2017, Narayan Vs. Eknath+2, thereby ld. Civil Judge (Junior Division), Risod decreed the suit for injunction and granted injunction against the defendants.

2] **Brief facts giving rise to the present appeal are as under :-**

A] **Plaintiff's Case :**

That the description of the suit property relevant to this suit is as under :-

Bhu. No.	H.R.	L.R.	Share
107	1.21	3.75	Full

bounded on – East – By the field of Ramdas Janardhan Khodke and Dnyanba Piraji Khodke,  
West – By the field of Eknath Laxman Khodke (Deft. No.1) and Ramdas Janardhan Khodke,  
South – By the field of Kailas Bhikaji Ugale,  
North – By the field of Rambhau Aashruji Dhavle,

Situated at village Dhodap Khu. Tq. Risod, Dist. Washim with all kinds of trees therein.

3] That the plaintiff is owner and is in possession of the suit property. That the plaintiff purchased suit property from Sakharam Tapaji Ugale by registered sale-deed. From the date of sale-deed the plaintiff is owner and is in continuous possession of the suit property. The name of plaintiff recorded in revenue record. Serial No.37/2 merged into Gat No.107 as per the scheme of consolidation. The plaintiff also borrowed loan from Seva Sahakar Society over the suit land.

4] That the plaintiff is owner and is in possession of the suit property. The defendants have no right, title, interest over the suit property. The plaintiff had taken crops in the suit property and in this year the plaintiff made summer operation in suit land and the plaintiff sown crop of soybean in the suit field.

5] The defendants have no any right, title, interest over the suit property. On 26/06/2017, the plaintiff was doing work in the suit land at that time the defendants unlawfully entered into the suit land and told to the plaintiff to go away from the suit land and gave a threats to cause death, if they continued his work in the suit land and thereby disturbed the peaceful possession of the plaintiff over the suit land. The defendants also gave threats to the plaintiff regarding dispossession. Due to illegal act made by the defendants, there is reasonable apprehension in the mind of plaintiff that the defendants may take forcible possession from the plaintiff. The plaintiff went to the Police Station, Risod and filed report and the police registered N.C.R. No.0528/2017 on 26/06/2017 and the police advised to the plaintiff to file civil suit as being matter of civil nature. Hence, the plaintiff has no go but to file this suit. The plaintiff have prima facie case and balance of convenience fully lies in favour of the plaintiff. If injunction is not granted, the plaintiff will be put to a great loss which cannot be compensated by any means. Hence, plaintiff constrained to file this suit for permanent injunction.

6] The cause of action for this suit arose at village Dhodap Khu. Tq. Risod, Dist. Washim on 26/06/2017 in suit field and thereafter time to time within the jurisdiction of this Hon'ble Court.

**B] The defendant's case :**

7] Defendant Nos.1 to 3 have filed written statement below Exh.15 contending *inter alia* that the averment made in the plaint are false and frivolous. It is denied by them the plaintiff is exclusive owner and possessor of the suit property. It is denied by them that plaintiff purchased the suit property from Sakharam Tapaji Ugale. They have denied the cause of action. It is contended by them that plaintiff, defendant No.1 Eknath and Janardhan are real brothers. Their forefather

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is Laxman Khodke. Laxman died some years before. The original name of the plaintiff is Maroti Laxman Khodke. He was given in adoption to Ganpati Khodke and at the time of adoption his name changed as Narayan Ganpati Khodke. The suit property is their ancestral property. Its original survey No.33/1-A and 37/2, which was deprived in Gat No.107, 108 and 109. The suit property is out of these Gat numbers. After the death of their father, there was original partition among the parties and out of family income Gat No.107, 1 H 21 R land was purchased in the name of Narayan for joint family. That property is given in the possession of defendant No.1 Eknath in oral partition. Since then defendant No.1 Eknath is cultivating land as owner. The plaintiff has no related with the suit property. Only on revenue record, the entry of his name remained. Defendant No.2 Kailas Khodke and defendant No.3 Gajanan Khodke are real brothers of defendant No.1 Eknath Khodke. Plaintiff Narayan Khodke is no related with the suit property. Village Talathi has given cultivation certificate to plaintiff behind back of the defendants. There is dispute between the party interested about their agricultural land. Hence, false suit is filed. The defendant has erected pipe line from Painganga river. To that effect, he purchased half Guntha land from Dattarao Sudama More. His electricity connection in the name of defendant No.3 Gajanan Khodke. The defendant No.1 Eknath Khodke is in possession of suit property. Hence, they are prayed for dismiss the suit.

8] In view of rival pleadings the ld. trial Court framed three issues as follows :-

<b>Sr. No.</b>	<b>Issues</b>	<b>Findings</b>
1	Does the plaintiff prove that the suit property is his possession ?	Yes
2	Does the plaintiff prove that the defendant are obstructing his possession over the suit property ?	Yes

- |   |  |                    |
|---|--|--------------------|
| 3 | Whether plaintiff is entitled for temporary injunction ? | Yes                |
| 4 | What order ?   | As per final order |

9] Being aggrieved with the above judgment and decree plaintiff appeal came to be preferred on the ground mentioned in the appeal memo.

**C] Evidence :**

10] Plaintiff has examined himself below Exh.35. He has filed police-aid application Exh.53, 7/12 extract Exh.45, 46 & 47, revenue entry Exh.48, certificate Exh.49, complaint application Exh.51, 52, copy of sale-deed Exh.20. Plaintiff has closed his evidence by filing pursis Exh.57.

11] Defendant No.3 has filed evidence Exh.58. Defendant No.1 has filed evidence Exh.81. They have closed their evidence by filing pursis Exh.82. They have filed consolidation extract Exh.66, account extract Exh.67, bills Exh.68 to 73, Perepatrak application Exh.74, report Exh.75, panchnama Exh.76, appeal Exh.77, sale-deed Exh.78 and receipt Exh.79.

**D] Arguments :**

12] It is argued by ld. advocate Shri. R. A. Hiwrale for appellants that even though sale-deed of suit property is executed in the name of plaintiff. In fact defendant No.1 is in possession of suit property. He has erected pipe line. He has produced on record Perepatrak and report of Talathi. The name of plaintiff is remained on 7/12 extract. In fact the suit property was purchased in the name of plaintiff from joint family income. Therefore plaintiff is not a sole owner of the property. In view of oral partition the defendant No.1 is in his possession. These facts are not

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considered by the ld. trial Court and it erroneously decreed the suit. Hence, they are praying for allowing of the appeal and dismissal of the suit.

13] Per contra, it is argued by the ld. advocate Shri. Yeole for respondent that sale-deed and revenue entries proved ownership and possession of the plaintiff over the suit property. The plaintiff has pleaded and proved obstruction at the hands of defendants. Hence, the ld. trial Court has rightly decreed the suit. Therefore, they are supporting to the judgment and decree.

14] Having heard the parties and perused the record and proceedings, following points arise for my consideration, together with my findings thereon, for the reasons recorded below :-

<b>Sr. No.</b>	<b>Issues</b>	<b>Findings</b>
1	Whether the order passed by Ld. Trial Court is legal and proper ?	In the affirmative
2	Whether interference is required ?	In the negative
3	What order ?	As per final order.

### **REASONS**

#### **As to point No.1 to All :**

15] It is case of plaintiff that he purchased the suit property from Sakharam Tapaji Ugale by registered sale-deed. As against this, it is the case of the plaintiff that the suit property is purchased out of the joint family income. The plaintiff has produced on record 7/12 extract below Exh.45, which shows that mutation of his name to the suit property. Copy of sale-deed is produced along-with Exh.20, which shows that on 13/04/1972 he had purchased suit property from Sakharam Tapaji Ugale.

Therefore, it is not the case that plaintiff's name is mutated to the 7/12 extract of the suit property and the execution of the registered sale-deed. Therefore, the sale-deed and mutation entry are best proof for title and possession of the plaintiff over the suit property under Section 157 of the Maharashtra Land Revenue Code, there is presumed in favour of such a entry.

16] The defendants are came with a case that from joint family income they purchased the suit property. To that effect the evidence of defendant No.3 and evidence of defendant No.1 as well as their pleadings are silent as to when and how they purchased the suit property from joint family income. In such circumstances, the plaintiff has proved his ownership and possession over the suit property. The bill produced on record by defendant No.3 Gajanan Khodke does not show Gat number of suit property. The defendants have not examined any witness from four boundaries to show their exclusive possession over the suit property. On the other hand, the sale-deed and revenue entries are not in favour of plaintiff.

17] So far as regards obstruction is considered it can be safely held that plaintiff's pleading and evidence to that effect is plaintiff, because the defendants are claiming that they are in possession of the suit property. So it is nothing but a challenge to the plaintiff's right title, interest and possession in the suit property. This itself amounts to obstruction. All these aspects are correctly considered by the ld. trial Court and it has correctly decreed the suit. Hence, there is no any error in the impugned judgment. Therefore, there is no need to interference in the impugned judgment. Hence, I record my findings to point No.1 in the affirmative and point No.2 in the negative and proceed to pass the following order :-

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**ORDER**

- 1] The appeal is hereby dismissed.
- 2] The impugned judgment and decree of Reg. Civil Suit No. 53/2017, Narayan Vs. Eknath+2, dtd. 16/02/2023 passed by Civil Judge (Jr. Dn.), Risod is hereby confirmed.
- 3] Decree be drawn up accordingly.
- 4] Parties to bear their own costs.
- 5] Inform to the trial Court.
- 6] R & P be returned to trial Court as per rules.

(Judgment dictated and pronounced in open Court)

Date : 06/05/2026

(J. P. Zapate)  
District Judge -1, Washim.

Judgment

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Regular Civil Appeal No.42/2024

**CERTIFICATE**

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

Name of the Stenographer

:- Nitin B. Khandare, Stenographer (Grade-1)

Court Name

:- District Judge-1 & Additional Sessions Judge, Washim

Date

:- 06/05/2026

Order signed by the Presiding Officer on

:- 06/05/2026

Order uploaded on

:- 06/05/2026