



Received on	19/10/2022
Registered on	20/10/2022
Decided on	07/05/2026
Duration	03 Y. 06 M. 18 D.

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

**Regular Civil Appeal No. 78/2022**  
**CNR No. MHWS010016542022**

**Exh. No. 25**

1)	Bhagwat Dnyanba Navghare, Aged about 55 years, Occu. Agriculturist, R/o. Pangari Navghare, Tq. Malegaon, Dist. Washim.	... <b>Appellant/original plaintiff.</b>
<b><u>VERSUS</u></b>		
1)	Sushilabai Shankar Jadhav (Koche) (Dead),	
2)	Datta Shankar Jadhav (Koche), Aged about 45 years, Occu. Agriculturist,	
3)	Digambar Shankar Jadhav (Koche), Aged about 40 years, Occu. Agriculturist, 2 and 3 R/o. Zodga Kh., Tq. Malegaon, Dist. Washim.	
4)	Rekha Bhagwat Ambhore, Aged about 43 years, Occu. Household, R/o. Waghlood, Tq. Malegaon, Dist. Washim.	
5)	Eknath Dnyanba Kavar, Aged about 61 years, Occu. Agriculturist,	
6)	Kailash Dnyanba Kavar, Aged about 40 years, Occu. Agriculturist, 5 & 6 R/o. Zodga Bk., Tq. Malegaon, Dist. Washim.	
7)	Bhaurao Chinku Muthal, Aged about 50 years, Occu. Agriculturist, R/o. Zodga Kh., Tq. Malegaon, Dist. Washim.	
8)	Kishor Namdeorao Wankhede, Aged about 40 years, Occu. Agriculturist,	

	R/o. Karuneshwar Mandir, Washim, Dist. Washim.	<b>... Respondent/ original defendants</b>
9)	Vijay Digambar Awate, Aged about 33 years, Occu. Agriculturist, R/o. Waghlood, Tq. Malegaon, Dist. Washim.	
10)	Shailesh Kondiram Pardhe, Aged about 32 years, Occu. Agriculturist, R/o. Shukrawar Peth, Washim, Dist. Washim.	
11)	Deputy Superintendent of Land Record and Enquiry Officer of Consolidation Scheme for Zodga Bk., Office at Malegaon, Tq. Malegaon, Dist. Washim.	
12)	Collector, Washim of State of Maharashtra.	
13)	Tahsildar, Malegaon, Dist. Washim.	

**APPEAL UNDER SECTION 96 OF THE CIVIL PROCEDURE CODE**

=====

Appearance:-

Mr. R. S. Gawali, Advocate for appellant.

Ex-parte against respondents.

=====

**J U D G M E N T**

(Dated 07/05/2026)

1. By the present appeal, the appellant/original plaintiff is challenging the judgement and order passed by the Ld. Civil Judge (Sr. Dn.), Washim in RCS No. 28/2016 dated 23/09/2022.
2. The plaintiff/appellant herein filed the suit contenting that the Survey No. 5, Gat No. 36 admeasuring 1 H 62 R out of which 61 R is the land suit premises. The earlier Survey No. 5 was divided into four divisions 1 to 4 and the said property divisions came to be transferred from one person to another in due course of time. Survey No. 5/3 admeasures 2 acre 68 Guntha which is 1 H 19 R. Half of it was owned by Eknath and other half by Yashwant and Sakharam. During the consolidation, Survey No. 5 was

converted into Gat No. 37 to Gat No. 39 and the Pothhissa are mixed into one another and areas do not tally. The plaintiff's land instead of Gat No. 37 is shown as Gat No. 36. One Shankar Koche had transferred the land out of Gat No. 5/3 to Dnyanba, but Shankar and Dnyanba Kavar both lands are shown in the consolidation which is mistake. Gajanan owns half portion and the boundaries are mentioned in sale deed dated 14/03/1974. The said came to be transferred by Shankar to Dnyanba which is in possession of defendant Nos. 5 and 6. The land owned by Eknath is transferred by sale deed of 1992 to defendant No. 7 and he in turn in 1996, sold it to the plaintiff. The consolidation is incorrect. Proper transfers are not considered and defendants are trying to take undue advantage and sell off the excess lands shown on revenue record. Hence, the present suit.

3. The said suit came to be resisted by defendant No. 11 by filing his written statement. Defendant Nos. 1 to 4, 8 to 10 and 12 and 13 proceeded without WS and original defendant Nos. 5 and 7 are ex-parte. Defendant No. 11 denied all the contentions and submitted that unless the consolidation is corrected, Civil Court cannot take any action.
4. The Ld. Trial Court framed issues as per Exh. 52. The plaintiff led his evidence and defendant did not lead evidence. After hearing both the sides, the Ld. trial Court was pleased to partly decree the suit, allowing the declaration of ownership of the property, but rejecting the issue of sale deed. Hence, the present appeal.
5. Heard the Ld. counsel for the appellants. None for respondents inspite of notice. Following points arise for my consideration and I answer the same for the reasons stated hereinafter.

Sr. No.	Points	Findings
1]	Whether the plaintiff is entitled for declaration with regard to the sale deed ?	... <b>In the partly affirmative.</b>

2]	Whether the impugned order requires any interference ?	... In the affirmative.
3]	What order ?	... As per final order.

### REASONS

#### As to Point No. 1 :-

6. At the outset it is necessary to point out that the Ld. trial Court has gone through all the evidence and pointed out that there is discrepancy in the consolidation and there are mistakes therein. Although the court has considered that it cannot rule into Consolidation. The civil rights of the parties are required to be protected. Considering the same, the Ld. Trial Court has held that the plaintiff to be owner of the suit property.
7. The Ld. trial Court while considering the sale deed of 06.10.2015 has held that the said relief cannot be granted as it does not survive as the defendants have not contested the claim. I hold that this is an incorrect approach of the Ld. trial Court. Apparently, if the sale deed is affecting the rights of the plaintiff, such declaration would be binding on the defendants and will have to be passed accordingly. Considering this minor error in the entire case, the plaintiff would be entitled for declaration but only with regard to the suit property and not a blanket order against him. Hence, I answer point No. 1 partly in affirmative.

#### As to point No. 2 -

8. Considering the aspect that Ld. Court has held that the aspect does not survive but has rejected the claim of the plaintiff, the judgment and decree requires interference. Hence, I pass the following order -

### ORDER

- 1] The appeal is partly allowed.

- 2] The the judgement and order passed by the Ld. Civil Judge (Sr. Dn.), Washim in RCS No. 28/2016 dated 23/09/2022 is hereby modified and plaintiff is also granted following additional relief.
- 3] It is also hereby declared that the sale deed dated 05.10.2015 at Sr. No. 1695 is not binding upon the plaintiff so far as it pertains to the suit property.
- 4] Parties to bear their own costs.
- 5] R & P be returned to the trial Court as per rules.
- 6] Decree be drawn up accordingly.
- 7] RCA No. 78/2022 stands disposed off, accordingly.

(Dictated and pronounced in open Court).

Date:- 07/05/2026.

**(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	:	07/05/2026
Judgment Dictated on	:	07/05/2026
Order/Judgment signed by Presiding Officer on	:	07/05/2026
Order/Judgment uploaded on	:	07/05/2026