



Presented on : 16/03/2009
Registered on : 17/03/2009
Decided on : 08/05/2026
Duration : Y. M. D.
17 01 23

IN THE COURT OF CIVIL JUDGE [SR. DN.], WASHIM.

(Presided over by Shri S. S. Sahasrabudhe)

R.C.S. No.46/2009

Exh.No.157

(CNR No: MHWS020001462009)

Gopal Narayandas Agrawal
Age about 36, Occu.- Business & Agriculturist,
R/o. Washim, Tq. & Dist.Washim

... **Plaintiff.**

...V E R S U S...

1] Lalita w/o. Rajkumar Agrawal,
Age about 45 years, Occu- household work
R/o. Chandak Lay Out Lakhala,
Washim, Tq. & Dist.Washim

2] Rajkumar Kashiprasad Agrawal,
Age about 51 years, Occu- Agriculturist,
R/o. Chandak Lay Out Lakhala,
Washim, Tq. & Dist.Washim

3] Taluka Inspector of Land Record, Washim,
Tq. & Dist.Washim

4] Collector Washim,
(For and behalf of State of Maharashtra)

... **Defendants.**

Shri. U. A. Deshmukh : Advocate for the plaintiff.

Shri.S. G. Bakaliwal : Advocate for defendant Nos.1 & 2.

Exparte against defendant Nos.3 & 4.



Presented on : 07/04/2010
Registered on : 15/04/2010
Decided on : 08/05/2026
Duration : Y. M. D.
16 01 01

R.C.S. No.23/2012
(CNR No: MHWS020009102010)

Exh.No.54

Sou. Lalita wife of Rajkumar Agrawal,
Age about 45 years, Occu. : Household Work,
R/o. Chandak Lay Out Lakhala,
Washim, Tq. & Dist.Washim ... **Plaintiff.**

...V E R S U S...

Gopal son of Narayandas Agrawal,
Age about 36, Occu.- Business,
R/o. Patni Chowk, Washim, Tq. & Dist.Washim ... **Defendant.**

Shri. S. G. Bakaliwal : Advocate for the plaintiff.
Shri.U. A. Deshmukh : Advocate for defendant No.1.

COMMON JUDGMENT

[Delivered on 08th day of May, 2026]

Gopal Narayandas Agrawal who is plaintiff in RCS No.46/2009 has filed the suit for permanent and mandatory injunction against the defendant Lalita w/o. Rajkumar Agrawal and others. The defendant in RCS No.46/2009 Lalita w/o. Rajkumar Agrawal has filed RCS No.23/2012 against Gopal Narayandas Agrawal for possession, damages and permanent injunction.

2] The plaintiff in RCS No.46/2009 Gopal Narayandas Agrawal who is defendant in RCS No.23/2012 hereinafter called as plaintiff and the defendant in RCS No.46/2009 Lalita w/o. Rajkumar Agrawal who is plaintiff in RCS No.23/2012 hereinafter called as the defendant.

3] Both these suits are in respect same subject matter i.e. the suit property bearing C.T.S. 381, Sheet No.61, Patni Chowk, Washim admeasuring 160.85 Sq.Mtrs. The complete plot is well constructed consisting of three storied building. The subject matter of the suit is one shop site of the ground floor and complete first floor and second floor. The parties are also same. Therefore, both these suits are decided by common judgment.

4] The plaintiff came with case that the plaintiff is owner and in possession of the suit property explained in the Para. 1. The possession of the tenants is through plaintiff. The plaintiff is taken the adoption by Narayandas Sitaram Agrawal. The defendant no.1 is also daughter of Narayandas Sitaram Agrawal. Her marriage took place about 22 to 23 years back. After marriage she is residing with her husband. The defendant no.2 is her husband. The defendant no.1 and 2 were residing at village Koyali after marriage. Prior to three to four years they have shifted at Washim and residing on the above address at Lakhala Chandak Layout Washim.

5] The plaintiff pleaded that due to old aged Narayandas Sitaram Agrawal who is adoptive father was physically and mentally

sick due to old age. He was incapable of any understanding. The plaintiff was taking all his care and that of properly and also nursing him. Narayandas, plaintiff, wife of the plaintiff namely Anjali and minor two daughters of the plaintiff namely Akanksha and Pranali were residing together in the suit property on the first and second floor. Even adoptive mother of the plaintiff namely Kamalabai was also residing with plaintiff. Kamalabai died on 31/12/2006 the plaintiff has conducted the funeral and other post ceremonies of deceased Kamalabai being son. However, because of death of Kamalabai adoptive father of the plaintiff was much mentally and physically disturbed. He was suffer from diabetes, blood pressure. He was under treatment of Dr. Bank of Washim, Dr. Malokar and Dr. Khandelwal, Akola. Brain City Scan was also taken at the advice of doctors. The plaintiff was rendering his full love and affection and was taking maximum care of Narayandas being a son.

6] The plaintiff pleaded that Narayandas Sitaramji Agrawal adoptive father of the plaintiff when was mentally and physically fit to dispose off the property had taken the decision to give some cash to the defendant no.1 in his lifetime. In fact one plot behind the C.T.S. 381 was purchased by adoptive father Narayandas in the name of the defendants and one plot at Kanergaon Naka. Besides this the plot and residential house where the defendants no.1 and 2 are residing at Chandak Layout was also purchased and constructed by Narayandas for defendants no.1 and 2. Many old ornaments were given to the defendants no.1 and 2 by Narayandas. Thus already enough

immovable and movable property was given by Narayandas to the defendants. In spite of that he was desiring to give some cash property in gift to defendants no.1 and 2. Thereofre, the adoptive father of the plaintiff Narayandas Sitaram Agrawal called the plaintiff and gave him understanding and knowledge of his intention. He made proposal of the partition of joint family property. On 14/1/2002 adoptive father of the plaintiff Narayandas Sitaram Agrawal made oral partition in between himself and the plaintiff. In the said partition he took Rs.6,50,000/- in cash to his share and all the fixed deposit of Rs.10,00,000/- which were in Washim Urban Co-operative Bank Ltd. Branch Washim and share in the ancestral house situated at village Adgaon Mutkule, Tq. & Dist. Hingoli and agricultural land situated therein. He gave Rs.1,50,000/- in cash to the plaintiff and in addition to that the suit property explained in Para.1 above to the share of the plaintiff. The plaintiff gave consent to this oral partition. Accordingly Narayandas made oral partition in between himself and plaintiff and allotted the share as stated above to the plaintiff. The said partition took place in the presence of witnesses. Accordingly the plaintiff has become owner and came in to possession of the suit property as per oral partition dated 14/01/2002. Narayandas Sitaram Agrawal put the plaintiff in exclusive possession of the suit property on the date of partition. On 20/01/2002 the plaintiff and Narayandas Sitaram Agrwal reduced in writing the memorundom of oral partition and list of the properties of oral partition. The said memorandum and list is duly signed by the plaintiff, Narayandas and also attested by witnesses.

7] The plaintiff further pleaded that accordingly the plaintiff is exclusive owner of the said property and after partition adoptive father Narayandas is having no title and interest in the suit property. The said partition took place on 14/01/2002 as stated above. However, the relations in between the plaintiff and Narayandas were with full love and affection therefore Narayandas was residing with the plaintiff and the plaintiff was taking all his care as stated above. Since Oct. 2007 Narayandas Sitaram Agrwal was completely mentally disturb and incapable of any understanding. His city scan was taken at Akola. He was unable to do anything and unable to understand. He was not in fit state of mind to dispose off the property. In the month of February 2008 both the defendants no.1 and 2 approached to the plaintiff and told that they want to take Narayandas with them as a change for him for his better health and further rest. The plaintiff did not notice any fraud and ill intention of the defendants no.1 and 2 behind the said proposal bening adoptive relative. Therefore, the plaintiff allowed the defendants no.1 and 2 to shift Narayandas to their home in sick condition.

8] The plaintiff submitted that however now the plaintiff realized that the defendants only with intent to grab the suit property had taken Narayandas Sitaram Agrawal with them to their house. Very soon they disallowed the plaintiff to meet Narayandas at their house. On 02/03/2008 the plaintiff had been to the house of the defendants no.1 and 2 to meet his adoptive father Narayandas. They also disallowed the plaintiff to see Narayandas. It was noticed by the

plaintiff that Narayandas was confined in one room. The plaintiff kept silence only looking to the relations.

9] The plaintiff also pleaded that on 12/04/2008 both the defendants no.1 and 2 had been to the house of the plaintiff. They quarreled with the plaintiff and disclosed that now they are owners of the complete C.T.S. 381, even including the share of Bhagwandas. They told that one gift deed is executed by Narayandas in favour of the defendant no.1 on 10/03/2008 of complete building. In fact as per the knowledge of the plaintiff in that period Narayandas was not free state of mind to dispose off the any property. The said Gift deed must be registered without any knowledge of Narayandas or by using fraud and coercion. Besides this Narayandas is not at all owner of the said suit property because of partition and further more Bhagwandas is also owner of one part in the said building. Bhagwandas is the natural father of the plaintiff. The plaintiff made search and came to know about the registration of the said Gift deed. On the reading the entire gift deed it appears that the said gift deed is bogus, forged document and not acted upon. The defendant no.1 could not receive any title, interest in the suit property on the basis of the said gift deed.

10] It is pleaded by the plaintiff that on 3/5/2008 plaintiff issued notice to defendant no.1 by registered post. In the said notice plaintiff gave her information as regarding partition dated 14/1/2002 and memorandum of partition. The defendant no.1 gave false reply to the said notice dated 12/5/2008. The plaintiff in spite of that false reply again sent another notice dated 16/5/2008. By all these notices

plaintiff invited the defendant no.1 and 2 to settle the dispute amicably. The defendant no.1 and 2 did not give any reply to the notice dated 16/5/2008 and also did not cooperate for settlement of dispute out of court. On the contrary defendant no.2 instigated one ex-tenant Maniklal Mistri to lodge false report to Police Station against the plaintiff. In fact he himself had left the tenanted premises and went to Rajasthan.

11] It is pleaded by the plaintiff that there are continuous activities of defendant no.1 and 2 to harass the plaintiff and to disturb the possession of the plaintiff over the suit property. Therefore, now he is required to institute this suit. Thereafter, the defendants no.1 and 2 again came to the house of the plaintiff 21/04/2008. They again threatened to the plaintiff that they will take the possession forcibly. In fact the defendant no.2 is the man behind all this designed work. He is big money lender of Washim. There is big man power behind him. There are continuous threatens to the plaintiff from the defendants. Therefore, the plaintiff apprehends danger to his possession over the suit property. Hence, he required to file this suit for permanent injunction. It is necessary to restrain the defendants from disturbing the possession of the plaintiff over the suit property by taking law in their hand. The plaintiff is having prima facie case. Balance of convenience is also in favour of the plaintiff. In case injunction as prayed for is not granted the plaintiff will suffer an irreparable loss.

12] The defendant Nos.1 and 2 appeared in the case. They have resisted the claim of plaintiff by filing written statement Exh.13. The

defendants have denied all the contentions of plaintiff. It is submitted by the defendants that the plaintiff is the son of Bhagwandas Agrawal i. e. brother of Narayandas Agrawal Because of love and affection the plaintiff used to reside with Narayandas Agrawal alongwith his wife. The plaintiff by taking the advantage of this, prepared the forged document and is claiming ownership over the suit property.

13] The defendant Nos.1 and 2 submitted that Kamalabai w/o Narayandas Agrawal executed Will on 12-6-2005 and by that will she bequeathed her share in the suit property in favour of the defendant no.1 alongwith golden ornaments and the deposits in the Banks. The Will is scribed by Hanumandas Agrawal and it is attested by the witnesses. The will is executed by Kamalabai in physically state of mind with full understanding. Kamalabai is expired on 31-12-2006. After her death the defendant no.1 became the owner of the property bequeathed by her.

14] The defendant Nos.1 and 2 further submitted that Narayandas Sitaram Agrawal executed gift deed on 10-3-2008 and given the disputed suit property to the defendant no.1. The defendant no.1 obtained the possession of the property on 10-3-2008. The gift deed is registered in the office of Sub Registrar Washim. The plaintiff is having full knowledge of the gift deed. The plaintiff annoyed because of the gift deed executed by Narayanda in favour of the defendant no.1 and hence he prepared forged and bogus document.

15] It is submitted by the defendant Nos.1 and 2 that the

plaintiff and his wife assaulted to Narayandas because of the threatening given by the plaintiff and his wife, Narayandas came to the house of defendant no.1 at Lakhala and started residing with defendant no.1 and 2. After Narayandas came to reside at Lakhala two rooms in 2nd floor and 5 rooms on 1st floor are occupied by plaintiff which were previously in possession of Narayandas and he used to reside therein. The possession of the plaintiff over these rooms are illegal and unauthorised one. The defendant no.1 will take recourse of court if found necessary for obtaining possession of the same. One room on the 1st floor is in possession of Murlidhar Agrawal as a tenant. He is mentally sick and because of that he is residing separately. Three rooms on 1st floor were occupied by Narayan Solunke as a tenant of Narayandas. He was having computer classes therein. He was tenant since more than 12 years. The deft no.1 used to take rent of Rs.1500/- per month from him after execution of gift deed by Narayandas in favour of Lalita.

16] It is further submitted that by the defendants that one room was rented to Anil Mawale by Narayandas, one room was occupied as tenant by Amol Malsane and one room was occupied by Tripati and Pande. All these persons were tenants of Narayandas. Presently plaintiff has inducted Pande in the room which was occupied by Tripati. Manik Mistri occupied one room as tenant. He vacated the premises and this room is given on rent to Prakash Agrawal by the defendant no.1 and Prakash Agrawal is in possession of it as tenant. Three rooms on the 2nd floor are in possession of Prakash Agrawal as

a tenant of Narayandas. Prakash Agrawal is occupying the rooms since last more than 15 years. On the ground floor the front portion is rented by Narayandas to Akot Urban Bank. Thus, the plaintiff has no right over the suit premises. He is trying to pressurize the tenant and manipulated and also creating his rights by false tactics. The rent of Akot Bank is given to defendant no.1 by Narayandas.

17] The defendant Nos.1 and 2 submitted that it is pertinent to note that in the office of defendant no.3 Narayandas has given statement before the concerned Authority and denied the rights of plaintiff. The plaintiff before the court suppressed the material fact. The plaintiff has no legal right to claim any relief against the defendants . The plaintiff has not claimed declaration and therefore the suit filed by the plaintiff is also not tenable. The suit filed by the plaintiff is false and frivolous and the same may be dismissed with compensatory costs of Rs.10,000/-in addition to the costs of these defendants.

18] The defendant in her suit pleaded that the owner of suit property was Narayandas Sitaram Agrawal. He executed registered gift deed on 10-3-2008 and given the building to the plaintiff. The plaintiff obtained the possession of the property on 10-3-2008. The plaintiff is having full knowledge of the gift deed. The defendant no.1 annoyed because of the gift deed executed by Narayandas in favour of the plaintiff. The defendant no.1 and his wife assaulted Narayandas and because of assault and threatening given by him and his wife, Narayandas came to the house of the plaintiff at Lakhala and started

residing with the plaintiff and her husband. After the aforesaid incident the defendant no.1 illegally occupied and took possession of the rooms as stated above. The defendant no.1 filed the suit against the plaintiff, her husband and office of T.I.L.R. for permanent injunction and mandatory injunction which is registered as R.C.S.No.46/09 and is pending before this court. In the suit, the W.S. is filed by the plaintiff. The suit filed by the defendant no.1 is totally false and is filed by suppressing the material facts from the court.

19] The defendant further pleaded that the gift deed dated 10-3-2008 is registered document. The plaintiff obtained the possession of the property. It is to be mentioned here that on the ground floor front one room is rented to Akot Urban co-op. Bank Said Bank is giving rent to the plaintiff. On the ground floor excluding this front room and the stair case adjacent to it on western side, the other rooms are owned by Bhagwandas Agrawal. The building is well constructed and situated in commercial area. That the plaintiff is claiming damages for unauthorized use and occupation from the defendants at the rate of Rs.700/-per day. The defendants1 to 5 are jointly and severally responsible to the aforesaid damages.

20] On the other hand the plaintiff has filed his written statement at Exh.18. The plaintiff has denied entire contention of defendant. Further the plaintiff submitted that the defendant is claiming title to the suit property through Narayandas Sitaram Agrawal and who is not party to the suit. Thus, the suit is liable to be dismissed. The plaintiff further submitted that the defendant herself is

claiming that defendant no.2 to 5 are tenants. The suit is not filed under Maharashtra Rent Control Act. Therefore Hon'ble Court has no jurisdiction to entertain the suit. It is submitted by the plaintiff that he is owner and in possession of the suit property. The possession of the tenants is through this plaintiff. The plaintiff is taken the adoption by Narayandas Sitaram Agrawal. The defendant is also daughter of Narayandas Sitaram Agrawal. Her marriage took place about 22 to 23 years back. After marriage she is residing with her husband. They are residing at Village Koyali after marriage. Prior to three to four years they have shifted at Washim and residing at Lakhala, Chandak Lay out Washim.

21] The plaintiff further submitted that due to old age Narayandas Sitaram Agrawal who is adoptive father was physically and mentally sick due to old age. He was incapable of any understanding. This plaintiff was taking all his care and that of property and also nursing him. Narayandas, this plaintiff and his wife namely Anjali and minor two daughters of plaintiff namely Akanksha and Pranali were residing together in the suit property on the first and second floor. Even adoptive mother of this defendant namely Kamalabai was also residing with this plaintiff. Kamalabai died on 31/12/2006. The plaintiff has conducted the funeral and other post ceremonies of deceased Kamalabai being son. However, because of death of Kamalabai adoptive father of plaintiff was much mentally and physically disturbed. He was suffer from diabetes, blood pressure. He was under treatment of Dr. Bang of Washim, Dr. Malokar and Dr.

Khandelwal, Akola. Brain City Scan was also taken at the advice of doctors. The plaintiff was rendering his full love and affection and was taking maximum care of Narayandas being a son.

22] The plaintiff further submitted that, Narayandas Sitaramji Agrawal adoptive father of this plaintiff when was mentally and physically fit to dispose off the property had taken the decision to give some cash to the defendant in his lifetime. In fact one plot behind the C.T.S. 381 was purchased by adoptive father Narayandas in the name of the defendant and one plot at Kanergaon Naka. Besides this, the plot and residential house where the defendant and her husband are residing at Chandak Layout was also purchased and constructed by Narayandas for defendant and her husband. Many gold ornaments were given to the defendant and her husband by Narayandas. Thus, already enough immovable and movable property was given by Narayandas to defendant and her husband. In spite of that he was desiring to give some cash property in gift to defendant and her husband.

23] The plaintiff submitted that, therefore the adoptive father of plaintiff, Narayandas Sitaram Agrawal called plaintiff and give him understanding and knowledge of his intention. He made proposal of the partition of the partition of joint family property. On 14/1/2002 adoptive father of plaintiff Narayandas Sitaram Agrawal made oral partition in between himself and plaintiff. In the said partition he took Rs.6,50,000/- in cash to his share and all the fixed deposit of Rs.10,00,000/- which were in Washim Urban Co-Operative Bank Ltd.

Branch Washim and share in the ancestral house situated at village Adgaon Mutkule, Tq. and Dist. Hingoli and agricultural land situated therein. He gave Rs.1,50,000/- in cash to plaintiff and in addition to that the suit property to the share of plaintiff. The plaintiff gave consent to this oral partition. Accordingly Narayandas made oral partition in between himself and plaintiff and allotted share as stated above to the plaintiff. The said partition took place in presence of witnesses. Accordingly plaintiff has become owner and came into possession of the suit property as per oral partition dated 14/01/2002. Narayandas Sitaram Agrawal put the plaintiff in exclusive possession of the suit property on the date of partition. On 20/01/2002 the plaintiff and Narayandas Sitaram Agrawal reduced in writing the memorandum of oral partition and list of the properties of oral partition. The said memorandum and list is duly signed by plaintiff, Narayandas and also attested by witnesses.

24] It is submitted by the plaintiff that accordingly plaintiff is exclusive owner of the said property and after partition adoptive father Narayandas is having no title interest in the suit property. The said partiton took place on 14/01/2002 as stated above. However, the relations in between the plaintiff and Narayandas were with full love and affection. Therefore, Narayandas was residing with plaintiff and plaintiff was taking all his care. It is submitted by the plaintiff that since October 2007 Narayandas Sitaram Agrawal was completely mentally disturb and incapable of any understanding. His city scan was taken at Akola. He was unable to do anything and unable to

understand. He was not in fit state of mind to dispose off the property. In the month of Feb. 2008 defendant and her husband approached to this defendant and told that, they want to take Narayandas with them as a change for him for his better health and further rest. The plaintiff did not notice any fraud and ill intention of the defendant and her husband behind the said proposal being adoptive relative. Therefore, plaintiff allowed them to shift Narayandas to their home in sick condition.

25] The plaintiff further submitted that however, now he realized that the defendant and her husband only with intent to grab the suit property had taken Narayandas Sitaram Agrawal with them to their house. Very soon they disallowed the plaintiff to meet Narayandas at their house. On 02/03/2008 the plaintiff had been to the house of defendant to meet his adoptive father Narayandas. They also disallowed him to see Narayandas. It was noticed by plaintiff that, Narayandas was confined in one room. The plaintiff kept silence only looking to the relations. On 12/04/2008 defendant and her husband had been to the house of plaintiff. They quarreled with plaintiff and disclosed that now they are owners of the complete C.T.S. 381, even including the share of Bhagwandas.

26] The plaintiff pleaded that on the basis of false and illegal gift deed the defendant and her husband attempted to record the mutation entry in Nazul record by bringing pressure on T.I.L.R. Washim, plaintiff has filed the civil suit for permanent injunction and mandatory injunction bearing civil suit no. R.C.S. 46/2009. The said

suit is filed on month of March 2009. The plaintiff already denied the title of the defendant in the said suit. The defendant has appeared and filed her written statement. During pendency of the earlier suit the present suit is filed.

27] The plaintiff also submitted that, already by way of oral partition the plaintiff has become owner of the entire suit property and is in exclusive possession. Narayandas had not made any grievance regarding the exclusive possession and ownership of plaintiff dated 14/1/2002 and which was reduced in writing as memorandum of oral partition dated 20/1/2002. Accordingly the defendant is having no right, title interest in the suit property. No gift deed is executed and even if so the same is without title and not binding to plaintiff. The defendant cannot become owner by virtue of the said gift deed. Thus, the suit is false and vexatious to the knowledge of defendant and she is liable to pay compensatory cost of Rs.100000/- along with cost of the suit.

28] My learned predecessor has framed issues in both the suits. Same are reproduced below along with my findings thereon. For the sake of convenience and brevity the serial number of issues in RCS No.23/2012 is renumbered after the numbering of issues in RCS No.46/2009. So also for proper identification of parties, plaintiff in RCS No.23/2012 is called as defendant and the defendant in the said case is called as plaintiff. Accordingly the corrections are made while mentioning the issues in RCS No.23/2012.

Sr. No.	<u>Issues (Exh.19)</u> <u>In R.C.S. No.46/2009</u>	<u>Findings</u>
1]	Does plaintiff prove his ownership and possession over suit property CTS no.381 Sheet No.61 a three storied building by virtue of oral partition dated 14.01.2002 of which memorandum is recorded on 20.01.02 ?	In the affirmative.
2]	Does plaintiff prove that the defendants no.1 & 2 have fraudulently and by applying coercion have got executed gift deed of suit property in their own favour from mentally unfit Narayandas Agrawal on dated 10.03.2008 and it is thus bogus and forged gift deed ?	In the affirmative.
3]	Does plaintiff prove that the defendant no.3 without following due procedure of law intending to effect mutation entry in favour of defendants on the basis of said gift deed and therefore he is necessary to restrain from doing so ?	In the negative.
4]	Does plaintiff prove that the defendants no.1 & 2 are disturbing his peaceful & lawful possession over suit property ?	In the affirmative.
5]	Do defendants prove that the deed of memorandum of partition dt.20.01.02 is forged and fabricated document?	In the negative.
6]	Do defendants prove that the adoption of plaintiff as son of Narayandas is illegal, null & void ?	In the negative.
7]	Do defendants prove that that mother of	

	defendant no.1 Kamlabai has executed a will dated 12/06/2005 in her favour in respect of suit property and by that virtue also, defendant No.1 became owner of the suit property ?	In the negative.
8]	Whether suit is bad for non joinder of necessary parties?	In the negative.
9]	Whether plaintiff is entitled for relief of permanent and/or mandatory injunction as prayed?	In the affirmative in respect of permanent injunction only.
10]	Whether defendants are entitled for compensatory costs?	In the negative.
11]	What order & decree?	As per final order

Sr. No.	<u>Issues (Exh.34)</u> <u>In R.C.S. No.23/2012</u>	<u>Findings</u>
12]	Does defendant prove that on the first and second floor of suit property CTS no.381 Sheet No.61 the tenants of defendant and plaintiff have occupied the place as trespasser ?	In the negative.
13]	Does defendant prove that the plaintiff has illegally inducted the defendants no.2 to 5 in RCS No.23/2012 in the suit property and they remain in possession thereof ?	In the negative.
14]	Does defendant prove that the plaintiff and defendant no.2 to 5 in RCS No.23/2012 are jointly and severally responsible to pay damages to the	In the negative.

	defendant @ Rs.700/- per day?	
15]	Whether suit is bad for non-joinder of necessary party ?	In the negative.
16]	Whether suit is tenable in view of provisions of Maharashtra Rent Control Act ?	In the affirmative.
17]	Does plaintiff prove that he is owner and possessor of suit property CTS no.381 Sheet No.61 a three storied building by virtue of oral partition dated 14.01.2002 of which memorandum is recorded on 20.01.02 made by Narayandas Agarwal ?	In the affirmative.
18]	Does plaintiff prove that defendant & her husband fraudulently and by applying coercion have got executed gift deed of suit property in their own favour from mentally unfit Narayandas Agrawal on dated 10.03.2008 and it is thus bogus and forged gift deed ?	In the affirmative.
19]	Whether defendant is entitled for relief of permanent injunction as prayed ?	In the negative.
20]	Whether defendant is entitled for relief of damages ?	In the negative.
21]	Whether defendant is entitled for possession of suit property?	In the negative.
22]	What order & decree ?	As per final order.
23]	Does defendant prove that she has become owner of the suit property by virtue of registered gift deed dt. 28.03.08 executed by Late Narayandas ?	In the negative.

REASONS

AS TO ISSUE No.6 :-

29] The defendant No.1 have denied the contention of plaintiff that the plaintiff is adopted son of Narayandas Agrawal. It is further submitted that Narayandas Agrawal, plaintiff and defendant no. 1 and 2 belongs to Agrawal community. There is no custom of taking in adoption a person above age of 15 years. The ceremonies as required for taking and giving in adoption for a boy is not performed. The plaintiff is not adopted son of Narayandas Agrawal. Therefore, he has no right or interest in the property of Narayandas. If any deed of adoption is made is null and void and is illegal.

30] On this point Ld. Counsel for the defendant Adv. Shri. Bakliwal submitted that at the time of adoption age of plaintiff was more than 15 years. At the time of adoption the ceremonies as required by the Act i.e. taking and giving the child in adoption was not performed. The plaintiff though pleaded has not proved the fact that there is custom prevailing in Agrawal community which authorized adoption of child more than 15 years of age. Therefore, it is clear that the plaintiff can not be considered as legally adopted son of Narayandas Agrawal. Therefore, he can not get any right in the property of Narayandas Agrawal. In support of his submission Ld. Counsel for the defendant Adv. Shri. Bakliwal relied on following case laws-

[i] **Ratanlal Alias Babulal Chunilal Samsuka Vs. Sundarabai**

Govardhandas Samsuka (D.) Th. Lrs. and Others reported in AIR 2017 SC 5797 wherein it was held that, “As customs, when pleaded are mostly at Variance with general law, they should be strictly proved. Generally, there is presumption that law prevails and when claim of custom is against such general presumption, then, whoever sets up plea of existence of any custom has to discharge onus of proving it, with all its requisites to satisfaction of Court in most clear and unambiguous manner.”

[ii] **Dinanath Badriprasad Shreshta Vs. Chandradevi Mahanprasad Upadhyia** reported in 2001(4) ALL M. R. 92 wherein it was held that, “However strong the bonds of love and affection towards the defendant, they could not make him an adopted member of the plaintiff's family. Adoption of the defendant to the plaintiff's family should have been pleaded in its material particulars, and proved thereafter by leading cogent and credible evidence as to the date of adoption, the manner of adoption, the deed of adoption and all ceremonies of adoption. Adoption is a peculiar procedure known to Hindu Law and though both the parties are Hindus, no such material is placed on record. So plea of adoption could be validly rejected.”

31] On the other hand Ld. Counsel for the plaintiff Adv. Shri. Deshmukh argued that as per evidence and pleading of Gopal the adoption deed is duly registered and proved by Gopal Narayandas Agrawal Exh.117 dated 12/05/1998 bears signatures of adoptive father Narayandas Agrawal and adoptive mother Kamalabai Narayandas Agrawal as well Gopal Agrawal and attested by biological

parents Bhagawandas Agrawal and Shantabai Agrawal. Shantabai is examined as a witness for that. In the said gift deed itself it is mentioned that adoptive parents and Gopal in adoption are belonging to Agrawal samaj and there is custom in Agrawal samaj to take in adoption any minor, major or married person. Accordingly Narayandas himself admitted the said custom. It is also argued that in order to prove adoption Gopal has examined himself as PW-1 as well examined PW-3 Anil Rameshwar Agrawal, R/o Dhule. He is also adopted by Rameshwar Agrawal while he was of the age more than 19 years. Then in order to prove the ceremonies Gopal has examined his biological mother Shantabai Bhagwandas Agrawal as well as his wife Anjali Gopal Agrawal.

32] In support of his submission Ld. Counsel for the plaintiff relied on following case laws-

[i] **Pralhad Sheonarayan Chokhani v. Damodhar Rankaran Vaishnao, and anothers** reported in AIR 1958 Bombay 79 wherein it was held that “amongst Agarwals the adoption is a secular affair. The only essential ceremony of adoption is the typing of a turban of the person nominating to the nominee. No giving and taking as such is necessary. The typing of the pagdi ceremony could be performed even after the death of the person nominating. The nominee can be an orphan and a married man.”

[ii] **Devgonda Raygonda Patil V. Shamgonda Raygonda Patil and Another** reported in AIR 1992 SC 189 wherein it was held that “The

adoption deed was registered. Under S. 16 of the Hindu Adoptions and Maintenance Act the presumption is raised that adoption has been made in compliance with the provisions of the Act. It was for the plaintiff to prove that ceremony of giving and taking has not been taken place.”

[iii] **Hanmant Laxman Salunke (D) by L.Rs. v. Shrirang Narayan Kanse** reported in AIR 2006 Bombay 123 wherein it was held, “Hindu Law. Custom and usage. Adoption of boy more than 15 years of age and married. Not invalid. Such custom is prevailing in Maratha Community governed by Mayukha or Bombay School of Hindu Law.”

[iv] **Anirudh Jagdeorao V. Babarao Irbaji & Others** reported in AIR 1983 Bombay 391 wherein it was held that, “The words 'custom' or 'usage' occurring in S.10(iii) and S.10(iv) of the Hindu Adoptions and Maintenance Act, 1956, read along with S.3(a) of the said Act includes within its sweep the rules of the Bombay School of Hindu Law (Mayukha) or interpretation of the text thereof by the Courts.

Cl.(iii) and (iv) of S.10 which contain conditions with respect to the marital status and the age of the person to be taken in adoption are the only provisions in the said Act in which an exception has been carved out in favour of custom or usage and by reason of the provisions of S.4 all other provisions of the said Act, apart from those contained in Cl.(iii) and (iv) of S.10, override all texts, rules or interpretations of Hindu law and all customs and usages as part of that

law in force immediately before the coming into operation of the said Act. The intention of Parliament in making exceptions in the case of custom and usage relating to the marital status and age of the person to be taken in adoption was to preserve any custom or usage contrary to the conditions prescribed by Cl.(iii) and (iv) of the said S.10 intact provided it was applicable to the parties concerned and was in force prior to the date of the coming into force of the said Act, namely, prior to December 21, 1956.”

[v] **Kondiba Rama Papalalias Shirke (Dead) By His Heirs and Anothers Vs. Narayan Kondiba Papal**, reported in AIR 1991 SC 1180 wherein it was held that, “Custom in concerned area permitting adoption of child at any age judicially recognised. Proof of custom not necessary in subsequent cases. Once factum of adoption is proved. Adoption cannot be challenged on ground that child was above 15 years at time of adoption. Adoption-Custom judicially recognised. Proof not necessary in subsequent cases. Adoption -Custom-Bombay State - Child at any age can be adopted.”

[vi] **Sultan Singh Vs. Ratan Singh and other** reported in AIR 1983 Allahabad 66 wherein it was held that, “Oral partition between Hindu family. Document drawn up by way of a memorandum of property allotted at partition. Not an instrument of partition and does not require registration. Where a document was drawn up by way of a memorandum of property allotted at a partition in Hindu family which had been arrived at between the parties orally by way of a family settlement by the mediation of Panchas and the document recorded

the assent of the parties thereto, it would not purport to be, and would not be an instrument of partition and as such, would not require registration.”

33] So far as oral and documentary evidence on the point of adoption is concerned the plaintiff has deposed in his evidence that he is adopted son of Narayandas Agrawal. The plaintiff has also examined his biological mother Shantabai PW-5 at Exh.114. She deposed that she is biological mother of plaintiff. She also deposed that Narayandas Agrawal was brother of her husband Bhagwandas. She also deposed that Narayandas and his wife Kamalabai have expressed their desire to adopt the plaintiff. There is custom in Agrawal family to adopt sons more than 14 years. It is also deposed that the witness and her husband decided to give the plaintiff in adoption to Narayandas. The date of adoption was fixed on 12/05/1998. It was also decided that the rituals of adoption will be performed by Bhairulal Giridharilal Maharaj. Accordingly the rituals was taken place and she and her husband has given the plaintiff in adoption to Narayandas and Kamalabai. After adoption name of plaintiff was changed as Gopal Narayandas Agrawal. Since then the plaintiff went to reside at the house of Narayandas. Thereafter, on 12/06/1998 the adoption deed was registered. The adoption deed Exh.117 is the same. It bears signatures of Gopal Agrawal, Narayandas Sitaramji Agrawal, Kamalabai Agrawal and her husband Bhagwandas. As she is illiterate she has affixed her thumb impression on the adoption deed.

34] The plaintiff has also examined Anil PW-3 at Exh.113. He

deposed that his biological father's name was Shivkumar Radhakisan Ladania and my mother's name was Anjanadevi Shivkumar Ladania. Currently, my name is Anil Rameshwar Agrawal. My name has changed because I have been adopted by Rameshwar Agrawal. The adoption was taken place on 21 June 1985. On the day of adoption, he was aged about 19 years and 6 months old. His biological parents and adoptive parents belong to the Agrawal community. Even though he was aged more than 19 years at the time of the adoption, no one has raised any objection because there is custom in our community. He is married and have two daughters and a son. His adoption was taken place before the Pancha of our community. Today, He has brought the original adoption deed with him. The adoption deed Exh.112 is the same. It bears signature of himself and signatures of his parents.

35] Admittedly at the time of adoption age of plaintiff was more than 15 years. As per the provisions of Hindu Adoption and Maintenance Act, 1956 a person who has not completed the age of 15 years can be adopted as per section 10. However, the section also provides that a person aged more than 15 also can be adopted if there is custom or usage applicable to the parties which permits persons who have completed the age of fifteen years being taken in adoption.

36] As per section 10 of the Act the age of a person who is being adopted must be less than 15 years. However, in the said section itself it is provided that if there is any custom prevailing in the community then the person aged more than 15 years or even a married person can be adopted.

37] In the present case the plaintiff came with case that though his age was more than 15 years still his adoption is valid. Because he is belongs to Agrawal community and there is custom in said community which permits adoption of a person more than 15 years. For proving the custom the plaintiff has adduced evidence of witness Anil PW-3 who deposed that when he was having age of 19 years and 6 months his adoptive parents have adopted him. He also deposed that there is custom in Agrawal community which authorized such adoption.

38] In addition to oral evidence the plaintiff has produced the adoption deed Exh.117 on record. On perusal of said document it appears that the document in question is registered document. In the said adoption deed there are recitals that there is custom in Agrawal community by which a major person can be adopted. Considering the oral evidence adduced by the plaintiff and the recitals of documents i.e. adoption deed filed on record by the plaintiff it can be gathered that there is custom in Agrawal community which authorized adoption of a person more than 15 years. So far as the submission of Ld. Counsel for the defendant that the plaintiff failed to prove the actual requirement of adoption i.e. giving and taking child is concerned. Admittedly at the time of adoption the plaintiff was more than 15 years. So also the plaintiff has not brought evidence on record that actual giving and taking was taken place. However, it is necessary to consider that as to whether the said ritual is necessary for completion of adoption in Agrawal community. On this point Ld. Counsel for the

plaintiff relied on **Pralhad Sheonarayan Chokhani v. Damodhar Rankaran Vaishnao, and anothers** (cited Supra). Considering the ratio of the said case law I came to the conclusion that in Agrawal community the custom permits the adoption of child more than 15 years. Moreover, in Agrawal community the actual giving and taking the child is not necessary. It was held in said case law that the only essential ceremony of adoption is the typing of a turban of the person nominating to the nominee. No giving and taking as such is necessary.

39] Considering the ratio of above referred case law as well as considering the ratio relied on by Ld. Counsel for the plaintiff on this point I came to the conclusion that the plaintiff has proved the fact that there is custom in Agrawal community by which adoption of a child more than 15 years is permissible. So also the actual giving and taking ceremony of child is also not necessary.

40] So far as the case laws relied on by Ld. Counsel for the defendant is concerned, it appears that the facts of case law cited by Ld. Counsel by the defendant is not identical with case in hand. Hence, with due respect to the proposition led down in cited case I hold that the said case laws is not helpful to the defendant.

41] Moreover, apart from all these aspects one another aspect needs to be considered is that the plaintiff has produce copy of evidence of defendant Lalita in SCC No.1163/2008 which is at Exh.69. On perusal of said evidence it appears that in her cross-examination the defendant Lalita has admitted that her parents have adopted the

plaintiff in the year 1998. Considering this admission also it can be inferred that the plaintiff is adopted son of deceased Narayandas.

42] So far as the evidence on behalf of defendants are concerned though the defendant pleaded that the adoption of plaintiff is illegal. However, the defendants have not adduced sufficient evidence to prove the said fact. Therefore, I hold that the defendants failed to prove that the adoption of plaintiff as son of Narayandas is illegal, null and void. Hence, I answer issue No.6 in the negative.

AS TO ISSUE Nos.2 & 18 :-

43] The plaintiff pleaded that the defendant Nos.1 and 2 have fraudulently and by applying coercion have got executed gift deed of suit property in their own favour from mentally unfit Narayandas Agrawal on dated 10/03/2008 and it is thus bogus and forged gift deed. The plaintiff deposed that in the month of February 2008 the defendant Nos.1 and 2 had been to his house and they have told him that they will carry Narayandas to their home. It was also told them by them that if Narayandas will live at their house there will be improvement in him. Thereafter, on 12/04/2008 the defendants had been to his house. They abused him. They narrated that they became owner of the share of Narayandas. It was also told that Narayandas has executed gift deed in their favour on 10/03/2008. It it also deposed that Narayandas was not having fit mental condition for executing the gift deed. The defendants have got executed the gift deed from him by taking disadvantage of his poor mental condition.

44] On the other hand the defendant Lalita DW-1 deposed that her father has executed registered gift deed in her favour on 10/03/2008. Certainly burden was on plaintiff to prove that the defendants have got executed the gift deed in question by taking disadvantage of poor mental condition of Narayandas. The document in question is registered document. Therefore, it was necessary for the plaintiff to prove his assertion the defendants have used coercion and got executed the gift deed from Narayandas. For proving the said aspect the plaintiff has examined himself on oath. However, he has not adduced evidence of any other witness on this point. Ld. Counsel for the plaintiff argued that if the gift deed in question is perused then it can be gathered that Narayandas has executed the gift deed of entire property bearing C.T.S. No.381 sheet No.61. In fact Narayandas was not owner of said entire property but it was jointly owned by his brother also. Therefore, Narayandas was not entitled to execute the gift deed of entire property.

45] It is also argued that the plaintiff has proved the fact that Narayandas has adopted him. So also the plaintiff has proved the fact that on 14/01/2002 Narayandas has partitioned his property. The said partition was oral partition which was taken place on 14/01/2002 in between Narayndas and plaintiff Gopal. In the said partition he has given suit property to Gopal and kept cash with himself. So also he has kept the house at Adgaon. Thereafter, on 20/01/2002 he prepared the memorandum of oral partition Exh.78. By virtue of said partition the original owner i.e. Narayandas has already allotted the suit property to

plaintiff. Therefore, he was not owner of the suit property. Hence, Narayandas was not entitled to execute the gift deed in favour of defendants. In spite of these facts the defendants have got executed the gift deed fraudulently from Narayandas.

46] On perusal of evidence of plaintiff it is clear that the plaintiff has specifically deposed that oral partition was taken place in between himself and Narayandas. Thereafter, the memorandum of partition Exh.78 was prepared. On this point ld. Counsel for the defendant argued that the said memorandum can not be considered because it was not registered. On the other hand Ld. Counsel for the plaintiff argued that firstly oral partition was taken place and later on memorandum was prepared. Therefore, there was no necessity to register the said memorandum because already the partition was taken place. In support of his submission ld. Counsel for the plaintiff relied on -

[i] **Roshan Singh and Others Vs. Zile Singh and others** reported in AIR 1988 Supreme Court 881 wherein it was held that, “If parties actually divide their estate and agree to hold in severalty, there is an end of the matter. The true principle that emerges can be stated thus: if the arrangement of compromise is one under which a person having an absolute title to the property transfers his title in some of the items thereof to the others, the formalities prescribed by law have to be complied with, since the transferees derive their respective title through the transferor. If, on the other hand, the parties set up competing titles and the differences are resolved by the compromise,

there is no question of one deriving title from the other, and therefore, the arrangement does not fall within the mischief of S. 17 read with S. 49 of the Registration Act as no interest in property is created or declared by the document for the first time. Further it is also well-settled that the document though unregistered can however be looked into for the limited purpose of establishing a severance in status, though that severance would ultimately affect the nature of the possession held by the members of the separated family as co-tenants. The document in the instant case can be used for the limited and collateral purpose of showing that the subsequent division of the properties allotted was in pursuance of the original intention to divide. In any view, the document was a mere list of properties allotted to the shares of the parties.”

[ii] **Mst. Rukhmabai Vs. Lala Laxminarayan** reported in AIR 1960 Supreme Court 335 wherein it was held that, “There is a presumption in Hindu Law that a family is joint. There can be a division in status among the members of a joint Hindu family by definement of shares which is technically called "division in status", or an actual division among them by allotment of specific property to each one of them which is described as "division by metes and bounds". A member need not receive any share in the joint estate but may renounce his interest therein; his renunciation merely extinguishes his interest in the estate but does not affect that status of the remaining members vis-avis the family property. A division in status can be effected by an unambiguous declaration to become divided from the others and that

intention can be expressed by any process. Though prima facie a document clearly expressing the intention to divide brings about a division in status, it is open to a party to prove that the said document was a sham or a nominal one not intended to be acted upon but was conceived and executed for an ulterior purpose. But there is no presumption that any property, whether moveable or immovable, held by a member of a joint Hindu family, is joint family property. The burden lies upon the person who asserts that a particular property is joint family property to establish that fact. But if he proves that there was sufficient joint family nucleus from and out of which the said property could have been acquired, the burden shifts to the member of the family setting up the claim that it is his personal property to establish that the said property has been acquired without any assistance from the joint family property. An unregistered document can effect separation in status. Held on considering the evidence that there was no severance in the joint family and that the brothers continued to be joint, doing joint business, that all of them collusively brought into existence documents, including the relinquishment deeds, to tide over the financial difficulties in which they were involved.”

[iii] **Ramdas Chimna Vs Pralhad Deorao** reported in 1964 Mh. L. J. 736 wherein it was held that, “Joint family property. Oral relinquishment of interest is valid.”

47] Considering the ratio of above referred case laws I hold that as the partition was taken place orally in between plaintiff and

Narayandas and later on memorandum of it was prepared. Therefore, it was necessary to register said memorandum. The plaintiff has proved the memorandum of partition Exh.78. Hence, considering the said memorandum I came to the conclusion that there was partition in between plaintiff and Narayandas and the suit property came to the share of plaintiff. Hence, certainly on the date of execution of memorandum itself Narayandas lost his ownership over the suit property. Hence, he was not entitled the gift deed in question.

48] Moreover, so far as the allegation of plaintiff that the defendants have got executed the gift deed in question by playing coercion and fraudulently is concerned certainly the plaintiff can not prove these facts by leading direct evidence but inference can be drawn in this regard. As discussed earlier though the original owner Narayandas has executed the gift deed of the property which was not actual possessed by him can be considered as one of the circumstance. Moreover, another circumstance needs to be considered is that Narayandas has executed the gift deed of property which was already allotted by him to plaintiff in partition. Third aspect is that Narayandas has executed the gift deed of entire CTS No.381 of which he was not sole owner also can be considered as circumstance from which it can be inferred that gift deed in question is not genuine document and it was obtained either fraudulently or using coercion. Hence, considering all these aspect I hold that the plaintiff proved the fact that the defendant Nos.1 and 2 have fraudulently and by applying coercion have got executed gift deed of suit property in their own

favour from mentally unfit Narayandas Agrawal on dated 10/03/2008 and it is thus bogus and forged gift deed. Hence, I answer issue Nos.2 and 18 in the affirmative.

AS TO ISSUE Nos.1, 5 & 17 :-

49] I have already held that the plaintiff has proved the fact that there was oral partition in between himself and Narayandas on 14/01/2002. Plaintiff has also proved the fact the memorandum of partition was prepared in respect of said partition on 20/01/2002. On the other hand though the defendants have pleaded that the plaintiff has prepared false memorandum of partition. However, the defendants have not lead cogent and reliable evidence to prove their contention. Therefore, considering these facts I hold that the plaintiff has proved his ownership and possession by virtue of oral partition. Hence, I hold that the plaintiff became owner of the suit property in view of said partition. Hence, I answer issue No.1 in the affirmative, issue No.5 in the negative and issue No.17 in the affirmative.

AS TO ISSUE No.7 :-

50] The defendants have pleaded that Kamalabai has executed will deed of suit property in favour of defendant No.1 so she became owner of the suit property. So far as evidence in this regard is concerned it appears that the will deed in question was produced on record. However, same was not executed. It was also appears from the said document that the will deed is not in respect of suit property. Therefore, I hold that defendant can not become the owner of suit property by virtue of will deed. Hence, I answer issue No.7 in the

negative.

AS TO ISSUE No.8 :-

51] The defendant Nos.1 and 2 have taken defence that the plaintiff has not joined Narayandas in the present suit. So the suit is bad for non-joinder of necessary party. Admittedly in the present case the plaintiff has not claimed any relief against Narayandas. Moreover, admittedly Narayandas died during the pendency of this proceeding. Therefore, it can not be inferred that the suit is bad for non-joinder of necessary party. Hence, I answer issue No.8 in the negative.

AS TO ISSUE Nos.3, 4 & 9 :-

52] The plaintiff has pleaded that the defendants are obstructing his possession. I have already held that the plaintiff has proved his ownership over the suit property. Admittedly defendants are claiming their ownership over the suit property. Therefore, certainly it needs to be inferred that the defendants are obstructing plaintiff's possession over the suit property. Hence, I hold that the plaintiff is entitled for the relief of permanent injunction. However, so far as the relief of mandatory injunction is concerned admittedly the plaintiff came with case that it is necessary to give directions to the defendants No.3. However, by producing copy of the judgment the plaintiff may apply with the defendant No.3 Hence, there is no necessary to issue the directions as sought. Hence, I answer issue No.3 in the negative, issue No. 4 in the affirmative and issue No.9 in the affirmative only in respect of relief of permanent injunction.

AS TO ISSUE Nos.12, 13 & 14 :-

53] I have already held that the plaintiff has proved his ownership over the suit property. I have also held that the suit property is in possession of plaintiff as owner thereon. Therefore, plaintiff's possession can not be considered as illegal or it can be inferred that the tenant which the plaintiff has inducted can be considered as illegally inducted. Therefore, I came to the conclusion that the defendants are not entitled for the damages as sought. Hence, I answer issue Nos.12, 13 and 14 in the negative.

AS TO ISSUE Nos.15 :-

54] The plaintiff has pleaded that suit of defendant bearing RCS No.23/2012 is bad for non-joinder of necessary party. However, for proving this aspect the plaintiff has not adduced sufficient evidence. Hence, I answer this issue in the negative.

AS TO ISSUE No.16 :-

55] So far as this issue is concerned both parties have not adduce evidence. Therefore, I hold that the suit is tenable. Hence, I answer issue No.16 in the affirmative.

AS TO ISSUE Nos.10, 19, 20, 21 and 23 :-

56] I have already held that the plaintiff has proved the fact that he became of the suit property by virtue of oral partition. I have already held that the gift deed produced by the defendant can not be considered as legal and valid document. Therefore, I hold that the defendant failed to prove that she became owner fo the suit property

by virtue of said gift deed dated 28/03/2008. Hence, I hold that the defendant is not entitled for the relief of permanent, for the relief of damages as well as she is not entitled for possession. Hence, I answer issue Nos.10, 19, 20, 21 and 23 in the negative.

AS TO ISSUE Nos.11 and 22 :-

57] I have already held that the plaintiff became owner of the suit property. I have also hold that the defendants by claiming ownership over the suit property are obstructing plaintiff's possession. Therefore, I came to the conclusion that the plaintiff is entitled for relief of permanent injunction as sought. On the other hand the defendant failed to prove the fact that she became owner of the suit property by virtue of gift deed executed by Narayandas. Therefore, I hold that the defendant is not entitled for the relief of possession nor she is entitled for the relief of damages and for permanent injunction. Hence, the defendant is not entitled for any relief. In the result I pass following order -

ORDER

- 1] The suit of plaintiff bearing RCS No.46/2009 is decreed. The suit of defendant bearing RCS No.23/2012 is dismissed.
- 2] The defendant, her agents, servants, relatives or any other person claiming through her is hereby permanently restrained from obstructing plaintiff's possession over the suit property.
- 3] Decree be drawn up accordingly.

Date:- 08/05/2026.

(S. S. Sahasrabudhe)
Civil Judge (Sr. Dn.), Washim.

CERTIFICATE

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

- 1) Name of Stenographer :- S. V. Dere (Stenographer G-II)
- 2) Name of Court :- Civil Judge (S.D.), Washim.
- 3) Date :- 08/05/2026
- 4) Order signed by the :- 08/05/2026
presiding officer on
- 5) Order uploaded on :- 08/05/2026