



Presented on : 08/08/2018
Registered on : 09/08/2018
Decided on : 24/06/2026
Duration : Y. M. D.
07 10 16

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

(Presided over by Shri S. S. Sahasrabudhe)

R.C.S. No.116/2018

Exh.No.66.

(CNR No: MHWS02001674-2018)

Sunil Narayan Jondhale,
Age about 38 years, Occu.- Agriculturist,
R/o. Jaulka,
Tq. Malegaon, Dist. Washim.

... **Plaintiff.**

..V E R S U S..

- 1] State of Maharashtra
Through Collector, Washim,
Tq. & Dist. Washim.
- 2] Sub-Divisional Officer,
Washim, Tq. & Dist. Washim.
- 3] Deputy Collector and Administrator of Navnagare
Samruddhi Expressway,
Maharashtra State Road Development Corporation Ltd.
(Government of Maharashtra Undertaking), Room No.16,
Collector Office, Washim, Tq. & Dist. Washim.
- 4] Sau. Kanchanmala Suresh Garde,
Age about 50 years, Occu.- Household.
R/o. Jaulka, Tq. Malegaon, Dist. Washim.
- 5] Smt. Shital Ashish Garde,
Age about 30 years, Occu.- Household.
R/o. Jaulka, Tq. Malegaon, Dist. Washim.
- 6] Smt. Gayabai Pandurang Awachar,
Age about 60 years, Occu.- Household.

- 7] Anil Pandurang Awachar,
Age about 45 years, Occu.- Agri.
- 8] Sunita Samadhan Sawale,
Age about 44 years, Occu.- Household.
Defendant Nos.6 to 8 R/o. Jaulka,
Tq. Malegaon, Dist. Washim.
- 9] Kailas Pandurang Awachar,
Age about 52 years, Occu.- Agri.
R/o. Mairaldoh, Tq. Malegaon, Dist. Washim.
- 10] Savita Dnyanadev Wankhede,
Age about 48 years, Occu.- Household.
R/o. Anai, Tq. Karanja, Dist. Washim.
- 11] Vitthal Narayan Sudake,
Age about 48 years, Occu.- Agri.
R/o. Jaulka, Tq. Malegaon, Dist. Washim.
- 12] Rajendra Vithoba Jinturkar,
Age about 45 years, Occu.- Agri.
R/o. Jay Gajanan Electronics, Bhera Road, Malegaon,
Tq. Malegaon, Dist. Washim. ... Defendants.

Shri. S. D. Pophale : Advocate for Plaintiff.

Suit proceeded exparte against Defendant Nos.1 to 5, 7, 11 and 12.

Suit proceeded without W.S. against Defendant Nos.6, 8, 9 and 10.

J U D G M E N T

[Delivered on 24th day of June, 2026]

Present suit is filed for declaration and permanent injunction.

2] It is the case of plaintiff that the subject matter of the suit is as described as below -

Old Survey No.141 admeasuring 01 H. 21.41 R. situated at Jaulka, Tq. Malegaon, Dist. Washim bounded as under -

As per dava ujava paan it is Survey No.141/2

On the East – Land of Gayabai Pandurang Awachar & others,

On the West – Land of Ingle Family,

On the North – Land of Kashiram Gyanuji Ingle and Family,

On the South – Land of Kanchanmala Garde & others.

The suit property is shown by letters 'ABCDEFGA' as shown in the plaint map.

3] It is pleaded by the plaintiff that as per dava ujava pan the Eastern most part owned by one Pandurang Laxman i.e. Survey No.141/3 whereas, Western most part owned by Narayan Shankar i.e. 141/1. The subject matter of the suit is 01 H. 21.41 R. which is the middle portion of field Survey No.141/2 shown by 'ABCDEFGA'. That, middle portion of Survey No.141/2 is suit property was initially owned and possessed by Kashiram Sonaji Ghusale. He sold this suit property by registered sale deed dated 01/03/1978 bearing document No.577/1978 to one Naryan Kisan Jondhale. Thereafter, there is partition between the Narayan Jondhale and sons in 2009 and under the mutation entry No.765 this suit property put to the share and possession of the plaintiff being the son of Narayan Jondhale. Thus, initially the Narayan Kisan Jondhale was the owner and thereafter plaintiff became the absolute owner and possessor of the land i.e. suit

property.

4] The plaintiff further pleaded that at the time of implementation of consolidation scheme under the Prevention and Fragmentation Act and Gat Nos.279, 280 and 281 new Gat Numbers were given to the holders of the Survey No.141. Accordingly, as per the record Gat No.281 seems to have been allotted to the land of the plaintiff, Gat No.279 to the land of Narayan Shankar from whom Sudama Gyanu and others claims title and Gat No.280 was allotted to the land of Pandurang Laxman now his legal heirs and etc.

5] The plaintiff further pleaded that there is no change in the location of the land and possession of the land till today on the spot. Furthermore, there is no change and identification in location and possession of the land purchased by the plaintiff's father in the year 1978 prior to implementation of the consolidation scheme and till today. That, recently the Government of Maharashtra declared the project of Samruddhi Expressway from Nagpur to Mumbai and accordingly, Government of Maharashtra created and setup the special offices and officers in each District from where the said Expressway going from Nagpur to Mumbai for implementation of demarcation, acquisition and measurement of land for the creation/construction of the said Expressway. The plaintiff came to know regarding the same Expressway and also came to know that 00 H. 38 R. land out of 01 H. 21 R. was becoming the part of said Expressway and required for the construction of the said expressways and said 00 H. 38 R. land is part and parcel of the 01 H. 21 R. of land belonging to the plaintiff and

which is in possession of the plaintiff owned and possessed by the plaintiff.

6] The plaintiff further pleaded that on enquiry with the authorities, the concern officers told to the plaintiff that the said Expressway is not going through the Gat No.281 which is allotted to the land of the plaintiff which is purchased in the 1978 as mention in the earlier paras. But further told that actually, the land from where the expressway is going on is in actual possession of the plaintiff and the said possession of the plaintiff is on Gat No.279 and 280. That, hearing this from the concerning authorities, plaintiff was so surprised and astonished and made discussion with the authority and accordingly, the Competent Authority defendant No.3 has got one application from the plaintiff on 02/01/2017 that the plaintiff is ready to give the land for the construction of the said express highway and accordingly, thereafter on 15/06/2017, the DYTILR Malegaon has issued measurement notice to the plaintiff and by that notice measurement to be took place on 22/06/2017 and accordingly, the land of the plaintiff i.e suit property has been measured by the DYTILR Malegaon. In the said measurement the proposed way of Expressway is shown and area to be acquired is also shown.

7] The plaintiff further pleaded that on 29/08/2017 DYTILR Malegaon issued a notice to the plaintiff stating that there has been mistake in the map in the Gat Nakasha and the consolidation officer coming for enquiry and therefore on 05/09/2017 asked this plaintiff to remain present with documents for correction of mistake.

Accordingly, on 05/09/2017 plaintiff remain present for enquiry and handed over the papers to authority. Thereafter, there is no any hearing / word from the Competent Authority defendant No.3 on enquiry by the plaintiff recently with the defendant No.3 it has been told by the defendant No.3 that though there is a mistake in the Gat Nakasha during the consolidation scheme. This authority defendant No.3 nothing to do with it. They will get the sale deed executed from the owner shown in the 7/12 of Gat Nos.279 and 280 and will take the forcible possession from the plaintiff and the acquisition value will be paid from whom sale deed get executed by the defendants and amount will be paid to them not to the plaintiff and further told plaintiff that they have nothing to do with the name of persons mentioned in the 7/12 of Gat Nos.279 and 280 having possession or not.

8] The plaintiff further pleaded that the suit property is in possession of the plaintiff as owner since 1978. The possession of the plaintiff is established and lawful one. Therefore, it is necessary to declare that the plaintiff is owner and possessor of the suit land and till today he is in possession of the suit land. It is crystal clear that there is mistake in the Gat Nakasha. Therefore, it is necessary to grant the decree of permanent injunction restraining the defendants not to get the sale deed of suit land from any other person except the plaintiff and not to pay the acquisition price / compensation to any other person except the plaintiff and restraining the defendants not to disturb the peaceful possession of the plaintiff over the suit property till the execution and registration of the sale deed of suit property in

favour of the defendants by the plaintiff. Therefore, the plaintiff constrained to file the present suit.

9] The suit is proceeded without W.S. against defendant Nos.6, 8, 9 and 10. The suit proceeded ex-parte against the defendant No.1 to 5, 7, 11 and 12.

10] Following points are arose for my determination same are reproduced along-with my findings thereon as under -

Sr. No.	<u>Points</u>	<u>Findings</u>
1]	Whether the plaintiff proves that he is the owner of the suit property ?	In the negative.
2]	Whether the plaintiff proves that at the time of implementation of consolidation scheme Gat No.281 was allotted to the field of plaintiff, Gat No.279 was allotted to the land of Narayan Shankar and Gat No.280 was allotted to the land of Pandurang Laxman ?	In the affirmative.
3]	Whether the plaintiff proves that while allotting Gat Numbers mistake was committed by the concerned authorities who have implemented consolidation scheme ?	In the affirmative.
4]	Whether the plaintiff proves that defendant No.3 are constructing the expressway from Gat Nos.279 and 280 which are in possession of the plaintiff ?	In the affirmative.
5]	Whether the plaintiff proves that in 7/12 extract names of owners are incorrectly recorded ?	In the affirmative.

6]	Whether the plaintiff is entitled for the relief of declaration as sought ?	In the negative.
7]	Whether the plaintiff is entitled for the relief of permanent injunction as sought ?	In the negative.
8]	What order and decree ?	As per final order

REASONS

As to Point Nos.1 and 6 :-

11] The plaintiff pleaded and deposed that he is owner of the suit property. It is also deposed that old Survey Number of suit property was 141. The plaintiff is owner of 1 H. 21.41 R. land i.e. middle portion of Survey No.141. It is also deposed that the plaintiff has inherited the suit property from his father. His father Narayan Kisan Jondhale has purchased the said property on 01/03/1978 by virtue of registered sale deed. The plaintiff has produced original sale deed at Exh.28 on record. On perusal of said sale deed it can be gathered that father of the plaintiff has purchased land of middle portion of said Survey Number from Kashiram Sonaji Ghusale for the consideration of Rs.1300/-. Survey Number of property is mentioned as 141.

12] It appears that the plaintiff has sought declaration that he should be declared as the owner of suit property. Certainly the plaintiff's father has purchased suit property by virtue of registered sale deed by paying valuable consideration. Therefore, certainly the plaintiff's father became owner of the suit property as the plaintiff has inherited suit property from him so the plaintiff became owner of the

suit property. Therefore, it will be unnecessary to declare him as owner of the suit property. Moreover, none of the defendants have denied plaintiff's title over the suit property. Considering this aspect and also in absence of specific denial of plaintiff's title by the defendants, I came to the conclusion that declaration as sought cannot be granted in favour of the plaintiff. Considering this aspect I hold that the plaintiff has not proved his title over the suit property. Hence, he is not entitled for the declaration as sought. Therefore, I answer point Nos.1 and 6 in the negative.

As to Point Nos.2, 3 and 5 :-

13] The plaintiff deposed that while implementing the consolidation scheme there was mistake the concerned authorities have incorrectly given Gat Numbers. As per the record Gat No.281 seems to have been allotted to the land of the plaintiff, Gat No.279 to the land of Narayan Shankar from whom Sudama Gyanu and others claims title and Gat No.280 was allotted to the land of Pandurang Laxman. The plaintiff deposed that middle portion of Survey No.141 i.e. 141(2) is in possession of the plaintiff. Therefore, it was necessary to allot Gat No.280 to the land of the plaintiff but incorrectly Gat No.281 was allotted. The plaintiff deposed that in 7/12 extract also owners names are incorrectly mentioned. For proving said fact the plaintiff has produced possession receipt Exh.26 on record. On perusal of said document it appears that 0.2668 R. land was taken from the possession of the plaintiff and it was handed over to authorized Officer of defendant No.3. In the said receipt it is mentioned that in 7/12 extract owner of the said land is Ashish Garde, Sheikh Lal, Gayabai

Pandurang Awachar and others. However, the said land is in possession of the plaintiff. So possession of said land obtained from the plaintiff and it was delivered to acquiring body. It appears that Tahsildar has prepared the panchanama and possession of the land was handed over to the acquiring body. The said panchanama and possession receipt bears the signature of the plaintiff, authorized person of acquiring body. It also bears the signature of other persons. Learned counsel for the plaintiff argued that from this fact itself it can be gathered that at the time of implementation of consolidation scheme Gat Numbers were incorrectly allotted. He also argued that the plaintiff has produced certified copy of land Survey Map Exh.47 from which it can be easily gathered that original Survey No.141 was having three Sub-Division bearing Nos.141/1, 141/2 and 141/3. Land of the plaintiff was situated at middle portion and his number was 141/2. Therefore, certainly the Consolidation Officer ought to have allot Gat No.280 to the said portion which is owned and possessed by the plaintiff. However, surprisingly plaintiff's name shown as a owner of Gat No.281 in fact Gat No.281 was not in possession of the plaintiff.

14] After considering oral and documentary evidence on record. I came to the conclusion that the plaintiff has proved the fact that at the time of implementation of consolidation scheme the Settlement Officer has incorrectly allotted the numbers. So also the plaintiff has proved the fact that in 7/12 extract owners names are incorrectly recorded. Therefore, I answer point Nos.2, 3 and 5 in the affirmative.

As to Point Nos.4 and 7 :-

15] The plaintiff has sought permanent injunction thereby restraining the defendants from getting sale deed executed from other persons than plaintiff. So also restraining the defendants from disturbing the plaintiff's possession over the suit property till the execution and registration of sale deed. As discussed earlier the plaintiff has proved the fact that while implementing consolidation scheme Gat Numbers were wrongly allotted. Admittedly, at present Gat No.281 is owned by the plaintiff as per revenue record. Gat No.280 is recorded in the name Pandurang Laxman and Gat No.279 is recorded in the name of Sudama, Gyanu and others. The plaintiff has also proved the fact that in fact, land bearing Gat No.280 is in his possession. The defendants have already obtained possession of same from him. Admittedly, in revenue record the plaintiff has shown owner of Gat No.281 and not the owner of Gat No.280. The plaintiff has adduced evidence on record that land from Gat No.280 is acquired by the defendants. Therefore, certainly it is necessary for the defendants to get the sale deed executed from the owner of Gat No.280. Admittedly, in revenue record the plaintiff has not been shown as owner of said field. Still permanent injunction as sought cannot be issued in favour of the plaintiff and against the defendants. Because if same is issued then certainly it will amount to declare the plaintiff as owner of Gat No.280. In other words by doing so this Court will correct the mistake of concerned authorities which they have done while implementing the consolidation scheme. Admittedly, in view of provision of Section 36(A) of The Maharashtra Prevention of

Fragmentation and Consolidation of Holdings Act, 1947 no Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this act required to be settled, decided or dealt with by the State Government or any Officer or authority. Therefore, this Court is not empowered to grant permanent injunction against the defendants.

16] Admittedly, the mistake was committed by the authority prescribed under The Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947 has committed mistake while allotting the Gat Numbers. However, as per Section 31(A) of the said Act such clerical or arithmetical mistake can be corrected by the Settlement Commissioner. However, the said powers are not vested with this Court. It was necessary for the plaintiff to approach with the Competent Authority for correction of the mistake in allotment of Gat Numbers. If the plaintiff had done so then certainly the Competent Authority ought to have correct the Gat Number and other revenue record. However, it appears that the plaintiff without approaching the Competent Authority have filed the present suit and he is seeking relief against the State Government. Therefore, considering this fact I came to the conclusion that the plaintiff is not entitled for the relief of permanent injunction as sought. Hence, I answer point No.4 in the affirmative and in answer to point No.7 in the negative.

As to Point No.8 :-

17] I have already held that the plaintiff is not entitled for the relief of declaration nor he is entitled for the relief of permanent

injunction. Hence, I hold that the plaintiff is not entitled for any relief.
Hence, in answer to this point, I pass the following order-

ORDER

- 1] The suit is dismissed.
- 2] Parties to bear their own costs.
- 3] Decree be drawn up accordingly.

(Dictated & pronounced in the open Court.)

Date:- 24/06/2026.

(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. P. Kale (Stenographer G-II)
- 2) Name of Court :- Civil Judge (S.D.), Washim.
- 3) Date :- 24/06/2026
- 4) Order signed by the :- 24/06/2026
presiding officer on
- 5) Order uploaded on :- 24/06/2026