



Presented on : 17/09/2021
Registered on : 17/09/2021
Decided on : 02/04/2026
Duration : Y. M. D.
06 06 16

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

(Presided over by Shri S. S. Sahasrabudhe)

R.C.S. No.218/2019

Exh.No.46.

(CNR No: MHWS020010862019)

Rameshwar Prabhakar Hirawe,
Age about 48 years, Occu. : Cultivator,
R/o. Brahmanwada, Tq. & Dist. Washim,
at present- Sadguru Coloney Indrayani Nagar
Thergaon Kalewadi, Tq. Chinchwad,
Dist. Pune.

... **Plaintiff.**

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

- 1] Prabhakar Kaduji Hirawe (Died)
Through L.Rs. as under defendant Nos.2 to 8
- 2] Lata Suresh Dewale,
Age about 46 years, Occu. : Household Work,
R/o. Tanhaji Nagar Chinchwad,
Tq. Chinchwad, Dist. Pune.
- 3] Runda Janardhan Hirawe,
Age about 44 years, Occu. : Household Work,
R/o. Brahmanwada,
at present Dhanora, Tq. & Dist. Washim.
- 4] Ravi Gowardhan Hirawe,
Aged adult, Occu. : Cultivator,
Tq. Dist. Washim.
- 5] Bhagwat Gowardhan Hirawe,
Aged adult, Occu. : Farmer,

- 6] Ajay Gowardhan Hirawe,
Aged adult, Occu. : Cultivator,
- 7] Gowardhan Prabhakar Hirawe,
Aged adult, Occu. : Cultivator,
- 8] Dwarkabai Prabhakar Hirawe,
Aged adult, Occu. : Household Work,
Defendant Nos.4 to 8 R/o. Brahmanwada,
Tq. & Dist. Washim. ... Defendants.

CLAIM : SUIT FOR PERMANENT INJUNCTION

Shri. Y. S. Gote	: Advocate for Plaintiff.
Shri. S. S. Kadhane	: Advocate for defendant Nos.1,4 to 8.
Shri. S. P. Borchate	: Advocate for defendant No.2.
Shri. M. D. Ingole	: Advocate for defendant No.3.

J U D G M E N T

[Delivered on 02nd day of April, 2026]

Present suit is filed for declaration, partition, separate possession, permanent injunction and for mesne profits. It is the case of plaintiff the suit properties bearing Gut No.93, 50, 138 mentioned in para No.1 of the plaint are ancestral properties of himself and the defendants. It is also submitted that all the suit properties are ancestral properties of plaintiff and the defendants. Plaintiff, defendant No.7 and one Janardhan are sons of defendant No.1 and defendant No.8 and defendant No.2 is daughter of defendant of defendant No.1 and defendant No.8.

- 2] It is pleaded by the plaintiff that the suit property is the

ancestral joint family property of the plaintiff, defendant Nos.1, 2, 3,7 and 8 and it is in possession of the joint family consisting of the plaintiff and defendants . The plaintiff, defendant no.1, 2 , 3 ,7 and 8 are having equal shares in the suit property. Defendant no.1 being a Karta of the family looking after the entire joint family property on behalf of the joint family. There is no partition amongst the plaintiff and the defendants pertaining to the suit property till today.

3] It is further pleaded by the plaintiff that the defendant No.1 is working as a karta of the joint family. The plaintiff and his brother Janardhan had gone to Pune in search of the job and at Pune they started to reside for doing the job there at Pune. Their sister Lata defendant no. 2 was already at Pune and with the help and assistance of Lata they were doing the job at Pune as in need and was available to them. Here at Brahmanwada, remaining members were residing at Brahmanwada and the defendant no.1 Prabhakar was and is acting as a karta on behalf of the joint family.

4] The plaintiff also pleaded that the plaintiff and his deceased brother Janardhan were of the belief that the defendant no. 1 Prabhakar as a father and as a Karta of the family will look after the family properly and will handle the joint family property with due care in the interest of joint family. Even for some years the defendant no.1 Prabhakar did his job as a Karta as good as expected by the plaintiff and other sons of the defendant no.1, but lateron, the defendant no.1 Prabhakar changed his attitude and started acting against the interest of the joint family. Since April 2019 the defendant no.1 Prabhakar

started to conceal the income of the joint family property arising out of the joint family property. Hence the plaintiff and his brother Janardhan made the request to Prabhakar, defendant no.1 to look after the family property properly and in the interest of the joint family and to maintain the account of the income of the joint family property. Though the defendant no.1 Prabhakar assured to do, yet did nothing and was acting against the interest of joint family, and hence the plaintiff and his brother Janardhan decided not to live in the joint family and to get separated from the joint family.

5] The plaintiff further pleaded that the last week of April 2019, the plaintiff and his brother Janardhan had come to Brahmanwada and made the demand of their shares in the suit property to the defendant no. 1 though the defendant no.1 Prabhakar orally assured to effect the partition, but avoided to do the same and was trying to pass out the time. On the other hand the defendant no.1 Prabhakar was trying to pressurize to the plaintiff and his brother Janardhan so that the plaintiff and Janardhan may not demand for partition.

6] The plaintiff also pleaded that the plaintiff and the defendant Janardhan, the plaintiff insisted for partition and separate possession immediately. Due to the pressure created by the defendant no.1 Prabhakar, the deceased Janardhan became frustrated and came under the pressure consequently Janardhan committed suicide on 03/05/2019. It is also submitted that the defendant no.1 Prabhakar saw that the plaintiff bent upon the partition and hence with intend to

deprive the plaintiff from getting his share in the suit property, executed the following gift deeds pertaining to the suit property in the name of defendant nos.4, 5 and 6 by named Ravi , Bhagwat and Ajay, those documents are described as below :-

A) The defendant no.1 Prabhakar executed the registered gift deed on 09/07/2019 in favour of the defendant no.5 Bhagwat pertaining to the suit property bearing Gut No.93 admeasuring 5 H. 93 R, share full. Out of it 1 H. 29 R. land bounded as below -

East- Field of Ajay Hirawe (today gifted)

West- Field of Ravi Hirawe (today gifted)

North- Field of Sadashiv Gawandhe

South- Field of Kashiram Kale.

B) The defendant No.1 Prabhakar also executed the registered gift deed on 09/07/2019 in favour of the defendant No.4 Ravi Prabhakar Hirwe pertaining to the suit property bearing Gut No.93 admeasuring 5 H. 93 R. share full. Out of it 1 H. 21 R. land bounded as below -

East- land of Bhagwat (gifted today)

West- remaining land of Prabhakar

South- Field of Kashiram Kale.

North- Field of Sadashiv Gawandhe.

C) The defendant No.1 Prabhakar on the same day executed a gift deed in favour of the defendant No.6 Ajay pertaining to the suit field property bearing Gut No.93 admeasuring 5 H. 93 R. share full. Out of it 2 H. 42 R. land bounded as below -

East- road

West- land gifted to Bhagwat

South- land of Shrikrushna Raut

North- Field of Manohar Gawande.

7] The plaintiff further pleaded that all above three gift-deeds are illegal and not binding on the plaintiff, so far as the plaintiff has a share in the suit property. The defendant no.1 Prabhakar though acting as a Karta of the family, yet not competent to dispose off the suit property by anyway against the interest of the joint fat and against the interest of the plaintiff as he was not absolute owner of the suit property and hence all three above gift-deed executed by the defendant no. 1 Prabhakar are illegal void and deserves to be declared as illegal and not binding on the plaintiff. Hence, the plaintiff constrained to file the present suit.

8] The defendant No.1 appeared in case but failed to file written statement. The defendant No.2 has filed written statement at Exh.19. The defendant has not disputed the description of property so also the relations between the parties. It is further submitted by this defendant that the suit property is ancestral property. The plaintiff, defendant No.1, 2, 7 and 8 are having equal share in it. She has also submitted that the suit property is yet to be partitioned. This defendant also admitted that the plaintiff has demanded partition to the defendant No.1. So the defendant No.1 has executed gift deeds in favour of defendant No.4, 5 and 6. It is also submitted that the said gift deeds are not binding on defendant No.2. It is further submitted that the defendant No.2 is entitled for her separate share in the suit property.

9] The defendant No.3 has filed written statement at Exh.26. The defendant has not disputed the description of property so also the relations between the parties. It is further submitted by this defendant that the suit property is ancestral property. She submitted that the plaintiff, defendant No.1, 2, 7 and 8 are having equal share in it. She has also submitted that the suit property is yet to be partitioned. This defendant also submitted that her husband has demanded partition to the defendant No.1. It is further submitted that the defendant No.1 and defendant No.8 have asked her to adopt the defendant No.6 Ajay. However, as she refused for the same so both of them have illtreated her. Hence, she has lodged the proceeding as per the provisions of Domestic Violence Act. It is also submitted that defendant No.1 has illegally executed gift deeds in favour of defendant No.4, 5 and 6. It is also submitted that the said gift deeds are not binding on defendant No.3. It is further submitted that the defendant No.3 is entitled for her separate share in the suit property.

10] The defendant Nos.4 to 6 and 8 have filed written statement at Exh.42. They have denied entire contents of plaint. It is submitted by them that the suit properties are owned by the defendant No.1. It is also pleaded that he himself purchased the properties by his own earning. The plaintiff so also husband of defendant No.3 Janardhan were residing at Pune from 20 to 25 years. The defendant No.7 was having bad vices. All these persons were not taking care of defendant No.1. The defendant Nos.4 to 6 are maintaining the defendant No.1 and defendant No.8. They are incurring their livelihood expenses. So, the defendant No.1 has executed gift deed of

suit property in their favour. By virtue of said gift deeds the defendant Nos.4 to 6 became absolute owner of the suit property. It is also submitted that all the suit properties are self acquired property of defendant No.1. So, the plaintiffs are not entitled to have share in it. Hence, the suit is liable to be dismissed.

11] The defendant No.7 appeared in case but failed to file written statement. Hence, the case is proceeded without W.S. against defendant No.7.

12] Issues framed by my learned predecessor are at Exh.33, those are reproduced along-with my findings thereon as under -

Sr. No.	<u>Issues</u>	<u>Findings</u>
1]	Whether the plaintiff proves that suit lands are ancestral Hindu Joint Family properties of himself and defendant Nos.1, 2, 3, 7 and 8 ?	In the negative.
2]	Whether the plaintiff proves that gift deeds dated 09/07/2019 executed by defendant No.1 in favour of defendant Nos.4, 5 and 6 are illegal and therefore, the same are not binding upon his share in suit lands ?	In the negative.
3]	Is the plaintiff entitled for declaration as sought for ?	In the negative.
4]	Whether the plaintiff proves that he is entitled to have partition and separate possession of his 1/6 th share in suit lands?	In the negative.

5]	What are shares of the plaintiff and defendant Nos.1, 2, 3, 7 and 8 in suit lands ?	In the negative.
6]	Is the plaintiff entitled for perpetual injunction against defendant Nos.1, 4, 5 and 6 as sought for ?	In the negative.
7]	What order and decree ?	As per final order

REASONS

As to Issue No.1 :-

13] The plaintiff pleaded that suit properties are ancestral properties of himself and the defendant Nos.1, 2, 3, 7 and 8. The defendant No.2 and 3 have not disputed this fact. The defendant No.4 to 6 and 8 have denied that the suit properties are ancestral properties. The plaintiff has adduced his evidence at Exh.30. He deposed that the suit properties are ancestral properties. He himself and the defendant Nos.1, 2, 3, 7 and 8 are having undivided share in it. On the other hand on behalf of defendant No.4 to 6 the defendant No.4 deposed at Exh.45. He deposed that the defendant No.1 has purchased all the suit properties from his own income.

14] The plaintiff has pleaded that the suit properties are ancestral properties. Therefore, the burden to prove the said fact was on plaintiff. However, for proving this fact the plaintiff has adduced his oral evidence. However, the plaintiff has not filed any document on record. Therefore, there is no evidence on record from which it can be gathered that the suit properties are ancestral properties of plaintiff

and defendants. Therefore, considering the evidence on record I hold that plaintiff failed to prove that the suit properties are ancestral properties. Hence, I answer issue no.1 in the negative.

As to Issue Nos.2 & 3 :-

15] The plaintiff pleaded and deposed that the defendant No.1 has illegally executed gift deeds in favour of defendant Nos.4, 5 and 6 on 09/07/2019. It is deposed by the plaintiff that as he has demanded partition from the defendant No.1. Therefore, the defendant has executed the said gift deeds.

16] It appears that the plaintiff came with specific case that the suit properties are ancestral properties. So it can be gathered that the plaintiff is claiming right by birth in the suit property and on that ground the plaintiff has contended that the defendant No.1 was not having right and authority to execute the gift deeds. Certainly it was necessary for the plaintiff to prove his contention by leading oral and documentary evidence. However, as discussed earlier the plaintiff has not adduced any evidence that the suit properties are ancestral properties. Not only this it appears from record that Ld. Counsel for the plaintiff has conducted cross-examination of defendant No.4. Wherein it was suggested that the suit property was inherited by the defendant No.1 from his mother. It appears that the defendant has denied this suggestion. No doubt though the defendant No.4 has denied this suggestion. However, it can be gathered that the plaintiff was intended to suggest that the suit property was inherited by the

defendant No.1 from his mother. If this fact is taken into consideration then it can be easily gathered that the suit properties were not inherited by the defendant No.1 from his father. Therefore, from this fact itself it can be easily gathered that the suit properties are not ancestral properties of defendant No.1. So, it can not be presumed that the plaintiff is having birth right in the said properties. Therefore, from this fact itself inference can not be drawn that the defendant No.1 was not having any right to transfer the property to another by virtue of gift deed. Certainly the property inherited from the female Hindu by her male descendant can be considered as his separate property. Therefore, defendant No.1 was having legal right and authority to dispose off the suit properties. Hence, the gift deeds executed by defendant No.1 in favour of the defendant Nos.4 to 6 can not be considered as illegal. So also it can be inferred that the said gift deeds are not binding on plaintiff's share. Therefore, I hold that the plaintiff is not entitled for the relief of declaration as sought. Hence, I answer issue Nos.2 and 3 in the negative.

As to Issue Nos.4 & 5 :-

17] The plaintiff has claimed the partition. The plaintiff has pleaded that he is having 1/6th share in the suit properties. It is also pleaded by the plaintiff that the defendant Nos.1 to 3, 7 and 8 are also having share in the suit properties. I have already held that the plaintiff failed to prove the fact that suit properties are ancestral properties. As discussed earlier I have already held that as the defendant No.1 has inherited the suit properties from his mother.

Therefore, the same are his separate properties. I have already held that the defendant No.1 was having legal right to execute the gift deeds in favour of defendant Nos.4 to 6 and the said gift deeds are legal one. Admittedly by virtue of those gift deeds the defendant No.1 has disposed off all the suit properties. Therefore, though the present plaintiff is son of defendant No.1 and after demise of defendant No.1 he is having right to inherit his property but admittedly the defendant No.1 has disposed off the entire suit properties by virtue of gift deeds. Hence, now the suit properties can not be partitioned. Hence, considering this fact I hold that the plaintiff is not entitled for the relief of partition as prayed. So also the defendant Nos.1 to 3 and 7 and 8 are also not having any share in the suit properties. Hence, I answer issue Nos.4 and 5 in the negative.

As to Issue Nos.6 & 7 :-

18] The plaintiff has sought relief of permanent injunction thereby restraining the defendant Nos.1, 4 to 6 from alienating the suit properties permanently. However, as discussed earlier I have already held that the defendant No.1 was owner of the suit properties and he was having right to execute the gift deeds in favour of defendant No.4 to 6. Admittedly, the defendant No.1 has executed gift deeds in favour of defendant Nos.4 to 6 so it can be easily inferred that the defendant Nos.4 to 6 became absolute owner of the properties. So the defendant Nos.4 to 6 are having legal right to transfer or disposed of the properties which they owned. Hence, injunction as sought can not be granted in favour of plaintiff and

against the defendants. Therefore, I answer issue No.6 in the negative and in answer to issue No.6 I pass the following order-

ORDER

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

Date:- 02/04/2026.

(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-III)
- 2) Name of Court :- Civil Judge (S.D.), Washim.
- 3) Date :- 02/04/2026
- 4) Order signed by the :- 02/04/2026
presiding officer on
- 5) Order uploaded on :- 04/04/2026