

MHRT070009892014 	Presented on	20.09.2014
	Registered on	20.09.2014
	Decided on	05.08.2026
	Duration	11 10 16 Y. M. D.

IN THE COURT OF CIVIL JUDGE JUNIOR DIVISION
CH IPLUN, DIST. RATNAGIRI

(Presided over by K. A. Powar)

Reg. Civil Suit No.89/2014

Exhibit No.160

- | | |
|--------------------------------------|------------|
| 1) Shri.Rajaram Gangaram Pashte } | Plaintiffs |
| (Deceased L.R.) } | |
| 1A) Smt.Jaywanti Rajaram Pashte, } | |
| Age - 60 yrs., Occu.-Agriculutre, } | |
| 1B) Shri.Prakash Rajaram Pashte, } | |
| Age - 40 yrs., Occu.-Agriculutre, } | |
| 1C) Shri.Mangesh Rajaram Pashte, } | |
| Age - 30 yrs., Occu.-Agriculutre, } | |
| 1D) Sou.Susmita Santosh Gangwan, } | |
| Before Marriage- } | |
| Sujata Rajaram Pashte, } | |
| Age - 35 yrs., Occu.-Agriculutre, } | |
| 1E) Sou.Priti Vishnu Khade, } | |
| Before Marriage- } | |
| Sushila Rajaram Pashte, } | |
| Age - 35 yrs., Occu.-Agriculutre, } | |
| 2) Shri.Tukaram Gangaram Pashte, } | |
| Age - 58 yrs., Occu.-Agriculutre, } | |
| 3) Shri.Parshuram Gangaram Pashte, } | |
| Age - 53 yrs., Occu.-Agriculutre, } | |

- | | | |
|--|---|------------|
| 4) Sou.Parvati Rajaram Hode, | } | |
| Age - 54 yrs., Occu.-Agriculutre, | } | |
| 5) Sou.Subhadra Soma Khade, | } | |
| Age - 53 yrs., Occu.- Agriculutre, | } | Plaintiffs |
| 6) Sou.Sunita Gangaram Ghanekar, | } | |
| Age - 48 yrs., Occu.- Agriculutre | } | |
| All R/s. A/p. Asurde, | } | |
| Pashtewadi, Tal.Chiplun, Dist.Ratnagiri. | } | |

-- VERSUS--

- | | |
|--|---|
| (1) Shri.Jaywant Parshuram Chavan } | |
| (Deceased L.R.) } | |
| 1A) Shri.Uday Jaywant Chavan, | } |
| Age - 45 yrs., Occu. - Service, | } |
| | } |
| 1B) Shri.Vijay Jaywant Chavan, | } |
| Age - 43 yrs., Occu. - Service, | } |
| | } |
| 1C) Shri.Sanjay Jaywant Chavan, | } |
| Age - 40 yrs., Occu. - Service, | } |
| | } |
| 1D) Sou.Nirmala Jaywant Chavan, | } |
| Age - 66 yrs., Occu. - Housewife, | } |
| No.1 to 6 All R/s. A/p. Yegaon, | } |
| Kurpanwadi, Tal.Chiplun, | } |
| Dist.Ratnagiri. | } |
| | |
| (2) Shri.Jagdev Parshuram Chavan, | } |
| Age 67 yrs., Occu. - Retired, | } |
| | |
| (3) Shri.Vasudev Parshuram Chavan, | } |
| Age 60 yrs., Occu. - Farmer/Business, | } |
| No.2 and 3 R/o. A/p. Yegaon, | } |
| Kurpanwadi, Tal.Chiplun, Dist.Ratnagiri. | } |
| | |
| (4) Shri.Ajay Yashwant Tambe, | } |
| Age 40 yrs., Occu.- Service, | } |

R/o. Ratnagiri, Tal.Dist.Ratnagiri, }

Present R/o.Talathi Sajja Asurde, }

Tal.Chiplun, Dist.Ratnagiri. }

(5) **Shri.Ashok Ravaji Sawant,** }

Age - 42 yrs., Occu. - Service, } **Defendants**

R/o.Chirni, Boudhwadi, }

Tal.Dist.Ratnagiri, }

At present Talathi Sajja Asurde, }

Tal.Chiplun, Dist.Ratnagiri }

**SUIT FOR DECLARATION, PERPETUAL AND MANDATORY
INJUNCTION.**

APPEARANCES :-

Shri.N.M.Hode - Advocate for plaintiffs.

Shri.S.P.Chitale - Advocate for defendants.

---:: J U D G M E N T ::---

(Delivered on 05.08.2026)

The present suit is filed by the plaintiffs against defendants for relief of declaration, perpetual and mandatory injunction.

**BRIEF FACTS OF THE PLAINTIFF'S CASE ARE
AS UNDER -**

02. DESCRIPTION OF SUIT PROPERTY -

Survey No.	Hissa No.	Local Name	Area Hecter and R	Assessment Rs. and Ps.
488	21-2-7	Darshet	0-40-6	2.74

Above mentioned property situated at village Asurde, Tal.Chiplun is subject matter of suit. Hereinafter referred as "suit property".

03. The suit property forms part of Gat No.488, original Survey No.21-2 + 7 - 11. Since the year 1953-54, the plaintiff's father Gangaram alias Ganya Yesu Pashthe was cultivating and enjoying the income from paddy, nagli (ragi/finger millet), and kaval grass from the suit property. In the 7/12 extract, his name was entered as the cultivator. The name of Laxmi Keshavrao Chavan, paternal aunt of the defendants, was shown as owner. Although her name was recorded, she never raised any objection or created any obstruction to the cultivation and possession of the plaintiff's father Gangaram alias Ganya Yesu Pashthe. Further, on 13 September 1967, Gangya executed a mortgage of the said property and obtained a loan from the Agricultural Credit Cooperative Society, Asurde. This is reflected in Mutation Entry No. 1916.

04. The plaintiff's father Gangya Yesu Pashthe remained in undisputed possession and enjoyment of the property, taking crops of Paddy, Nagli and Kaval grass, upto the year 1997. Even after he became old age and the defendants started assisting him, he continued in possession until his death on 04 April 1999. Thereafter, the plaintiff and the present defendants have been taking the produce of Paddy, Nagli and Kaval grass from the suit property. Even today, the plaintiffs are in possession of the property and has cultivated seasonal paddy crops therein. However, after the death of Gangya, the names of the plaintiffs were deleted and the present defendants were entered in the revenue records relating to the suit property in 7/12 extract through

Mutation Entry No. 1583 dated 30/05/2014 passed by the Circle Officer, Asurde. According to the plaintiffs, this mutation entry was made illegally.

05. During the pendency of the proceedings, on 03/10/2013, defendant no.3 obtained an order from the Talathi, Asurde, and accordingly Mutation Entry No.1582 was certified on 03.10.2013. By this entry, the name of Gangya Yesu Pashthe, who was recorded as a tenant/cultivator in the suit property, came to be deleted, and the names of Tukaram Gangaram Pashthe and Babu Tukaram Pashthe were entered as heirs. The basis for doing so was the order passed by the Tahsildar, in Case No. ENQ/181/10.12.73, pursuant to which Entry No.3357 was made. Thereafter, while implementing the said order, Shri Vasudev Parshuram Chavan submitted an application dated 03.10.2013 before the concerned authority. On the basis of that application, entries were made in the revenue records deleting the names of the heirs from the "other rights" column of the 7/12 extract. Subsequently, objections were raised by the plaintiff regarding those entries. Consequently, the Talathi referred the matter to the Circle Inspector for inquiry. By order dated 30.05.2014, the Circle Inspector, Asurde, approved the matter and certified Mutation Entry No.1583 afresh. The plaintiff obtained knowledge of the said entry on 26.06.2014.

06. Thereafter, the plaintiffs submitted complaints against the entries made by the Talathi and Circle Inspector, Asurde, before the Tahsildar, and the Sub-Divisional Officer,

on 29.10.2013. Further, on 18.11.2013, through Advocate Palande, the plaintiff published a detailed public notice/objection notice concerning the suit property, and the said notice were also served upon the defendants.

07. While certifying Mutation Entry No.1582, the Talathi and Circle Inspector relied upon Mutation Entry No.3357 dated 10.12.1973 and the order of the Tahsildar, in Case No. ENQ/181/10.12.73, and accordingly made the relevant revenue entries. However, despite the fact that the plaintiff's father Gangya Yesu Pashthe had been in prior possession and cultivation of the suit property, and despite the entry in the 7/12 extract showing him as a tenant/cultivator and notwithstanding the order in Case No.ENQ/181/10.12.73, Gangya Yesu Pashthe continued to remain in undisputed possession and enjoyment of the property, and the entries in the "other rights" column continued accordingly even after the said order and until his death. The plaintiffs states that their possession and cultivation of the suit property and their rights recorded in the revenue records as a tenant/cultivator have been ignored by the Talathi and Circle Officer. Although the plaintiff's possession and cultivation have continued for many years, the concerned authorities failed to consider these facts. Therefore, due to this illegal action, the plaintiffs have been compelled to file the present suit.

08. On 01.04.1977, the plaintiffs became the deemed purchaser of the suit property as a tenant/cultivator under the relevant tenancy laws. The plaintiffs have already

initiated appropriate proceedings before the competent authority for recognition of this status. Since those proceedings are still pending, the Talathi and Circle Inspector acted improperly and pre-judicially to the plaintiff's interests by making the disputed entries in the revenue record.

09. While certifying the disputed Mutation Entries Nos.1582 and 1583, the Talathi and Circle Inspector overlooked the fact that for about 41 years no rights had been recognized or transferred in favor of the defendants. Under Sections 149, 150 and 155 of the Maharashtra Land Revenue Code, entries relating to succession, survivorship, inheritance, partition, purchase, mortgage, lease, or any other right are required to be examined carefully before certification. It was necessary to consider whether any lawful right had actually devolved upon or been transferred to the defendants during this period.

10. The defendants are businessmen, retired persons, and financially well-off. Therefore, the plaintiffs have a reasonable apprehension that they may attempt to take forcible possession of the suit property or interfere with his lawful rights. Any such dispossession would cause irreparable loss to the plaintiffs that cannot be compensated in monetary terms. The defendants have no right, title, or authority to interfere with or cast a wrongful eye upon the suit property. However, since the defendants have started asserting claims over the property, it has become necessary to restrain them from acting in a manner that would cause

loss to the plaintiff. As per Mutation Entry No. 1889, the names of the sisters of Defendant Nos. 2 and 3 were entered in the 7/12 extract on 03/08/1969. However, since the plaintiffs have no grievance against them and their names do not presently appear in the 7/12 extract, they have not been made parties to the suit. Hence, plaintiffs are constrained to file to present suit.

11. Defendant no.1(a) to 1(d), 2, 3 filed their written statement at Exh.24. It is contended that, suit of the plaintiff is false and misleading. Name of Gangaram Yesu Pashthe was recorded as a tenant due to mistake of concern revenue department. Name of Gangaram Yesu Pashthe has been deleted by due process of law. No appeal or revision was preferred by the plaintiff against deletion name of Gangaram Yesu Pashthe from record of right as a tenant. Originally Laxmibai was owner and possessor of the suit property. After her death her legal heirs succeeded to suit property. Plaintiffs are not having possession of the suit property. Predecessors of defendants used to cultivate crop of rice in the suit property. However, today only grass is cultivated. Defendants prayed to dismiss the suit.

12. Defendant no.4 and 5 filed their written statement at Exh.73. They contended that, suit of the plaintiff is false and misleading. Defendant no.5 was working as a Talathi in the year of 1984. He had been transferred from many places. In the year of 2009 he was working as a Talathi at Village Asurde. Thenafter, he was suspended. Defendant no.4 was working as Talathi in the

year of 1983. He also worked as Circle Officer for 5 years. 19 villages were covered under Village Asurde. In the year of 2015, he was transferred at Village Aaravli as a SDO. Mutation entry no.3357 is certified. No appeal was preferred against the said mutation by plaintiffs or their predecessors. Defendant was not working as Talathi when mutation entry no.3357 was certified. The said mutation is certified in the year of 2013 on the application of Vasudev Chavan. Before mutation of mutation entry no.1583 notices were issued to concerned parties. Objection was also raised. However, the objection was rejected. Hence, the said mutation entry was certified. The mutation entry bearing no.1583 and 1582 are certified by due process of law. The present suit is not maintainable against defendant nos.4 and 5. Hence, they prayed to dismiss the suit.

13. From consideration of facts and pleading of the plaintiff, defendants issues have been framed at Exh.75. I have record my finding against each of them for the reasons stated below-

Sr. No.	ISSUES	Findings
1)	Whether the plaintiff proves that, they are in possession of suit property ?	Joint possession proved
2)	Whether the plaintiff proves that, defendants are obstructing their peaceful possession?	Yes.
2/1)	Whether plaintiffs prove that, they are	No.

	the tenants over the suit property?	
2/2)	Whether plaintiffs are entitled for relief of declaration?	No.
2/3)	Whether plaintiffs are entitled for the alternative reliefs of recovery of possession?	Does not survive.
3)	Whether the plaintiffs are entitled to claim injunction?	Yes.
4)	What order and decree?	Suit is partly decreed.

14. The Plaintiffs in order to substantiate their claim examined P.W.No.1 Rajaram Gangaram Pashthe (at Exh.82), P.W.2 Arun Krushna Pashthe (at Exh.92), P.W.3 Sanjay Sakharam Gavnanng (at Exh.99), P.W.4 Sunita Gangaram Ghanekar (at Exh.103) in form of oral evidence. Documentary evidence produced by plaintiffs and defendants on record will be assessed at appropriate stage as and when necessary.

-:: REASONS ::-

AS TO ISSUE NO.1, 2, 2/1, 2/2, 2/3 & 3 -

15. Plaintiff examined P.W.No.1 Rajaram Gangaram Pashthe at Exh.82. He has reiterated his version in the plaint. He has deposed that, the suit property forms part of Gat No.488 (Old Survey No.21, Sub-Division 2+7). The plaintiffs contends that, his father, Gangaram alias Ganya Yesu Pashthe, had been in continuous cultivation and possession of the property since 1953-54, growing paddy,

nagli, and kaval grass, and his name was duly recorded as cultivator in the 7/12 extract. Although the original owner was Laxmi Keshavrao Chavan, she never objected to his possession. Gangya also mortgaged the property in 1967, which is reflected in Mutation Entry No.1116.

16. He further deposed that, After Gangya's death in 1997, the plaintiff continued cultivating the property. However, in 2013–2014, Mutation Entries Nos. 1582 and 1583 were made by the Talathi and Circle Inspector, altering the revenue records on the basis of an earlier Tahsildar's order and Mutation Entry No.3357. These entries were illegal, ignored his father's long-standing possession and tenancy rights, and were certified without proper inquiry. The plaintiff filed objections before the revenue authorities and issued a public notice challenging the entries. He became a deemed purchaser of the suit property under the BTAL Act on 01.04.1957 and proceedings for recognition of that status are pending before the competent authority.

17. He further deposed that, the revenue authorities acted contrary to the provisions of the Maharashtra Land Revenue Code by certifying the disputed mutation entries without verifying the defendants' lawful rights. Apprehending that the defendants may interfere with or forcibly dispossess him from the suit property, the plaintiffs have instituted the present suit seeking protection of their possession and legal rights, along with appropriate declaratory, possession and injunctive reliefs. P.W.No.2, 3 and 4 reiterated version of P.W.No.1.

18. The learned Advocate for the plaintiffs Shri.Hode submitted that, suit property originally owned by Laxmi Keshavrav Chavan. Father of the plaintiffs i.e. Gangaram Pashthe was a tenant in the suit property on tillers day i.e. 01.04.1957. Mutation entry bearing no.1582 and 1583 have been illegally certified behind back of the plaintiffs. Defendant no.3 filed application to Talathi to delete name of father of the plaintiffs from record of right. The said mutation entry is certified as 3357. The father of the plaintiffs was a deemed purchaser in view of Section 35 of BTAL Act. There is no surrender of tenancy by father of the plaintiff. In view of provisions of BTAL Act surrender of tenancy must be certified by Mamlatdar. No such procedure has been followed by revenue authority. Hence, he prayed to decree the suit. In support of his contentions, he relied upon following case laws-

- [1] Dattaram Dhondib Chopade V/s. Andappa Genu Walekar, 2012 (3) AIR Bombay 647,
- [2] Laxman Hari Tambe V/s. Dattu Sonu Pawar, 2006 (5), AIR 705,
- [3] Dattu Gundu Parit V/s. Javahar Nanchand Shah, 2006, (1) AIR Bombay 424,
- [4] Arvind Deochand Mehta V/s. Genu Tukaram Bhoir, 2009 (4) AIR Bombay 752,
- [5] Ishwara Sheku Nangare V/s. Vishwasrao Dattajirao Ingale, 2006 (6) AIR 276,

19. At this stage, it is apposite to evaluate the documentary evidence laid by the plaintiffs. The plaintiffs have come with the case that, suit property Gat No.488 (Old Survey No.21/2+7) situated at Village Asurde, Tal.Chiplun is originally owned by Laxmi Keshvarao Chavan. The father of the plaintiffs namely Gangaram @ Gangya Yesu Pashte was deemed a tenant in the suit property since 1953-1954. Certified copy of mutation entry bearing no.179 is produced along with Exh.125. On the perusal of mutation entry no.179 it transpires, that name of Gangya Yesu Pashte is mutated to Survey No.21-2+7 as a tenant. On perusal of 7/12 extract of Gat no.488 i.e. old survey no.21-2+7 it transpires that in other rights column of extract 7/12 by way of mutation entry bearing no.712 dated 21.02.2000 name of Tukaram, Rajaram, Parshuram, Parvati, Subhadra, Sunita and Laxmi are mutated as a tenant after death of Gangya Yesu Pashte. The mutation entry bearing no.712 is produced on record at Exh.123. On perusal of 7/12 extract (Exh.118) it transpires that, name of Gangya Yesu Pashte is mutated in cultivation column for the year 1999-2000, name of Tukaram Pashte mutated in cultivation column for the year 2004-2005, in the cultivation column for the year 2009-2010, 2010-2011, 2011-2012, 2012-2013, 2013-2014 name of tenants is mutated. It also transpires that in the cultivation columns crops like rice is cultivated.

20. By way of mutation entry bearing no.1583 (Exh.120) on the application of Vasudev Parshuram Chavan dated 03.10.2013 i.e. defendant no.3 name of legal heirs

Gangya Yesu Pashte i.e. Tukaram Gangaram Pashte and 7 tenants came to be deleted vide order dated 03.10.2013 from record of right of survey no.21-2+7 new Gat no.488 situated at village Asurde, Tal. Chiplun. It is relevant to note that, prior to mutation of names of present plaintiff Gangaram @ Gangya Yesu Pashte was deemed tenant in the suit property. After his death names of present plaintiffs came to be mutated as a tenant by succession. The Hon'ble Patna High Court in case of **Sudama Devi and Ors. Vs. Jogendra Choudhary and Ors. AIR 1987 Pat 239** it is held that "There is a settled general rule that if a person is specifically found in possession of an estate at a prior date, there is a presumption of continuity of such possession till the contrary is established."

21) It is relevant to note that, section 114 of Evidence Act provides that, there is a continuity of possession till contrary is established. In suit for perpetual injunction factum of possession is only material factor. The Hon'ble Apex Court. In case of **Rame Gowda (D) By Lrs vs M. Varadappa Naidu (D) By Lrs. & Anr, Civil Appeal No.7662/1997, AIR 2004 (SC)**, it observed that,

"the 'settled possession' must be (i) effective, (ii) undisturbed, and (iii) to the knowledge of the owner or without any attempt at concealment by the trespasser. The phrase 'settled possession' does not carry any special charm or magic in it; nor is it a ritualistic formula which can be confined in a strait-jacket. An occupation of the property by a

person as an agent or a servant acting at the instance of the owner will not amount to actual physical possession. The court laid down the following tests which may be adopted as a working rule for determining the attributes of 'settled possession' : i) that the trespasser must be in actual physical possession of the property over a sufficiently long period; ii) that the possession must be to the knowledge (either express or implied) of the owner or without any attempt at concealment by the trespasser and which contains an element of animus possidendi. The nature of possession of the trespasser would, however, be a matter to be decided on the facts and circumstances of each case; iii) the process of dispossession of the true owner by the trespasser must be complete and final and must be acquiesced to by the true owner; and iv) that one of the usual tests to determine the quality of settled possession, in the case of culturable land, would be whether or not the trespasser, after having taken possession, had grown any crop. If the crop had been grown by the trespasser, then even the true owner has no right to destroy the crop grown by the trespasser and take forcible possession.” **It is further held that, “where a person is in settled possession of property, even on the assumption that he had no right to remain on the property, he cannot be dispossessed**

by the owner of the property except by recourse to law.”

22. In the facts of the case in hand, Plaintiffs have shown that, they were in joint possession of the suit property as a tenant till 2013. Mere deletion of names of the plaintiffs from record of right does not mean that plaintiffs have lost their possession over the suit property unless it is shown that they have been dispossessed by defendants. The procedure for surrender of tenancy is prescribed under provisions of BTAL Act. At this stage it is relevant to note provisions of Section 31 and Section 15 of BTAL Act which are as follows-

(iii) **The relevant provisions of Section 15(1) read thus:--**

15(1) "A tenant may terminate the tenancy in respect of any land at any time by surrendering his interest therein in favour of the landlord : Provided that such surrender shall be in writing and verified before the Mamlatdar in the prescribed manner." Rule 9 of the Rules lays down the manner in which the verification of the surrender of the tenancy has to be made by the Mamlatdar under Section 15 and the Rule reads as follows: -- Rule 9 :-- Manner of verifying surrender of tenancy :-- "The Mamlatdar, when verifying the surrender of a tenancy by a tenant in favour of the landlord under section 15 shall satisfy himself, after such inquiry as he thinks fit, that the tenant understands, the nature and consequences of the surrender and also that it is voluntary, and shall endorse his findings in that behalf upon the instrument of surrender.

23. The Hon'ble Bombay High Court in the case of **Laxmanrao Anantrao Satardekar and Ors. V/s. Satyappa Pawar and Ors., AIR 1988 Bombay 244**, it is held that,

“The surrender of tenancy by the tenant will become effective only from the date of its verification by the Mamlatdar under Section 15(1) of the Bombay Tenancy Act read with Rule 9 of the Bombay Tenancy Rules. The language of Section 15(1) and of Rule 9 requires that, ordinarily, the Mamlatdar should endorse his finding that the surrender is voluntary at the time of verification of the surrender itself. Cases may, however, arise where the Mamlatdar, for one reason or the other, defers his endorsement or is impelled to do so by exigencies of circumstances. The endorsement merely records the nature of surrender which has already been effected. Although an endorsement of the surrender is of later date, it should relate back to the date of its verification.”

24. As per Section 15 of BTAL Act tenancy of the tenant by a landlord can be terminated only in writing and writing shall be verified before Mamlatdar in prescribed manner. As per Sub-Section 2(A) of Section 15 of BTAL Act Mamlatdar shall verify surrender of tenancy, hold and inquiry and decide whether landlord is entitle to retain hole or any portion of land surrender. In the facts of the case in hand, as per Section 15 of BTAL Act tenancy is not surrendered as required to be verified before of Mamlatdar in prescribed manner. Mere deletion of names of plaintiffs

from record of right by way of mutation entry does not extinguish rights of the plaintiffs and their father as a surrender of tenancy unless duly complied as per Section 15 and Section 31 of BTAL Act.

25. Moreover, in view of section 29 of BTAL Act procedure is prescribed for taking possession of land from the tenant by order of Mamlatdar. The Hon'ble Apex court in case of **Venkatesh Vs. Hajisaheb (1966) 2 SCR 215** it is held that, "in spite of the termination of the tenancy, the landlord has no right to obtain possession of the land without an order of the Mamlatdar under section 29(2). Between the date of the termination of the tenancy and the date of the order for possession under section 29(2), the tenant continues to be in lawful possession of the land and is liable to pay rent and not mesne profits." In the facts of the case no such procedure has been duly followed by the defendants to take possession of the suit property from the plaintiffs. Plaintiffs proved their joint possession over the suit property and obstruction by defendants to possession of plaintiff. Hence, as a result of above discussion I answer issue no.1, 2, 3 in the affirmative.

26. Plaintiffs have also claimed relief of declaration of legal character as a tenant in the suit property. Whether a person is a tenant or not would fall within section 70(b) of the BTAL Act and has to be decided by the Mamlatdar and not by the Civil Court. **Section 85-A of BTAL Act** provides that, **Suits involving issues required to be decided under this Act** (1) If any suit instituted in any Civil Court involves any

issues which are required to be settled, decided or dealt with by any authority competent to settle, decide or deal with such issues under this Act (hereinafter referred to as the “competent authority”), the Civil Court shall stay the suit and refer such issues to such competent authority for determination. (2) On receipt of such reference from the Civil Court, the competent authority shall deal with and decide such issues in accordance with the provisions of this Act and shall communicate its decision to the Civil Court and such Court shall thereupon dispose of the suit in accordance with the procedure applicable thereto.

27. In the facts of the case in hand, for deciding whether father of the plaintiff was tenant in the suit property reference has not been to Mamlatdar. Although, plaintiffs filed an application for referring the issue of tenancy at Exh.79. The said application came to be rejected. However, plaintiffs neither challenge the said order. Nor appeal was preferred against rejection of order passed below Exh.79.

28. Plaintiffs failed to prove that they are tenants in the said property by virtue of provisions of BTAL act so as to entitled for benefit of declaration as a tenant. However, plaintiffs proved their joint-possession over the suit property. Hence plaintiffs are entitled for relief of perpetual injunction. Hence, I answer issue nos.2/1, 2/2, 2/3 in the negative.

AS TO ISSUE NO.04 -

29. From the findings supra, I am inclined to partly decree this suit. In the result, in answer to issue no.4, I pass following order-

-:: ORDER ::-

- (1) Suit is partly decreed with Costs.
- (2) Defendants, their servants, agents or any other person on behalf of defendants are perpetually restrained from causing obstruction to the joint possession of plaintiffs over the suit property Gat no. 498 (Old survey no.21-2+7) situated at village Asurde Tal. Chiplun till plaintiffs have been dispossessed by following due procedure/ process of law as prescribed under provisions of BTAL Act.
- (3) Decree be drawn up accordingly.

(Declared & pronounced in Open Court.)

Place - Chiplun

Date - 05.08.2026

(K. A. Powar)

C.J.J.D., Chiplun.