



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 3928 OF 2022

1. Dinesh s/o Govardhanrao Hange
Age: 52 years, Occ. Lawyer,
R/o Malives Gali Beed.
2. Rajendra S/o Govardhanrao Hange
Age: 59 years, Occ. Lawyer.
R/o Millennium Park, Chikalthana
M.I.D.C. Aurangabad.

**.....Ori. Deft. No.8 & 9
PETITIONERS**

VERSUS

1. Sadhanabai w/o Sahebrao Bhopale
Age: 57 years. Occ. Household
2. Shrikisan s/o Mahadeorao Raut
Age: 40 years. Occ. Service and Agri
Both r/o Shahunagar, Beed,
Tq. And Dist. Beed.
3. Kamalbai w/o Wamanrao Raut,
Age: 62 years Occ. Household
4. Sarjerao s/o Wamanrao Raut
Age: 36 years Occ. Agri.
5. Lata w/o Mahadeo Bedre
Age: 30 years Occ. Household

.....Ori. Plaintiffs.

Resp. no.3 to 5 r/o Mukta Lawns, Balgujar,
Barshi Road, Beed.
Tq. And Dist. Beed

.....Ori. Deft. No.1 to 3

6. Jaising s/o Shivajirao Pandit,
Age: 46 years Occ. Business,
r/o Subhash Road, Beed
Tq. And Dist. Beed.

7. Pratapsing s/o Vedprakash Patil
Age 44 years Occ. Business
r/o Magar Patta city, Pune.
Tq. And Dist. Pune.
8. Dnyaneshwar s/o Bhagwat Aarbad
Age: 27 years Occ. Business
r/o Mategaon, Tq. Georai, Dist. Beed.
.....Ori. Deft. No.4 to 6
9. Lahane Charitable Trust,
Through Chief Promoter
- 9A) Dr. Shrihari s/o Limbajirao Lahane
Age: 68 years. Occ. Medical Practitioner
- 9B) Rukhamini w/o Shrihari Lahane
Age 59 years Occ. Household
Both r/o Vithai Hospital, Jirewadi,
Jalna road, Beed.
.....Ori. Deft. No.7
10. Udaysing s/o Bansidhar Pandit,
Age: 40 years Occ. Business
11. Ajaysing s/o Bansidhar Pandit,
Age: 35 years Occ. Business
Both r/o Pandit Nursing Home
Jalna road, Beed,
Tq. And Dist. Beed.
12. Sahebrao s/o Sonajirao Bhopale
Age: 72 years Occ. Medical Practitioner,
r/o Shahunagar, Beed,
Tq. And Dist. Beed.
.....Ori. Deft. No.10,11 &12
RESPONDENTS

Mr. P. V. Barde h/f Mr. A. R. Hange, Advocate for the
Petitioners

Mr. G. K. Naik Thigle, Advocate for Respondent nos.1 and 2

Mr. Manish Tripathi, Advocate for Respondent Nos.6 to 8

Mr. V. P. Savant, Advocate for Respondent nos.10 and 11

Mr. Maroti Kedar, Advocate for Respondent Nos.12

CORAM : ROHIT W. JOSHI, J.

DATED : 20TH AUGUST, 2025

ORAL JUDGMENT :-

. The respondent nos.1 and 2 in the present petition are original plaintiffs, who have filed a suit being Special Civil Suit No.93 of 2019 (Old Regular Civil Suit No.80 of 2014), which is pending on the file of the learned Joint Civil Judge, Senior Division, Beed. The respondent nos.3 to 8 are original defendants. The suit is filed seeking the following reliefs:

ब. प्रतिवादी क्र.१ हिने प्रतिवादी क्र.४ ते ६ यांना लिहून दिलेले खरेदीखत क्र.६७०१/२०१३ वादींवर बंधनकारक नाही, असे घोषित करून देण्यात यावे.

क. प्रतिवादी, त्यांचे हस्तक, नोकर, चाकर, एजंट, नातेवाईक अथवा त्यांचे वतीने इतर कोणीही वादींचे दावा मिळकतीवरील शांततामय ताब्यास अडथळा करू नये, असा निरंतर मनाई हुकूम वादींचे हक्कात व प्रतिवादींचे विरुद्ध देण्यात यावा.

2. Perusal of the complaint and particularly the prayers will demonstrate that the plaintiffs are challenging sale deed no.6701/2013 executed by defendant no.1 in favour of defendant nos.4 to 6. The plaintiffs are also claiming relief of perpetual injunction restraining the defendants from obstructing their alleged possession over the suit property. At

this juncture, it is also necessary to mention the boundaries of the suit property as stated in the plaint as under:

पुर्वेस	:	बीड जालना रोड
पश्चिमेस	:	साधनाबाई भास्कर मोराळे यांची जमीन व नसीम बेगम शेख खाजु यांची जमीन
दक्षिणेस	:	सर्व्हे नं.६८/अ चा बांध व पंचवटीबाई रामराव आवरगावकर यांची जमीन
उत्तरेस	:	वादी क्र.१ चे पती साहेबराव सोनाजी भोपळे यांची सर्व्हे नं.१९९ मधील जमीन.

The suit property according to the plaintiff comprises of land admeasuring 0.96HR land in survey no.199, total area 7.10HR, situated at village Anandwadi, Tahsil and District Beed. The dispute between the plaintiffs and defendants pertains to southern portion of the said survey no.199.

3. Perusal of the four boundaries mentioned above will demonstrate that the plaintiff claims to be owner of 0.96HR land from the southern most portion of survey no.199 in as much as the southern boundary of the suit property allegedly owned by the plaintiff is stated to be survey no.86/A and the northern boundary is mentioned as part of survey no.199 owned by husband of the plaintiff no.1. In this suit, an application for joint measurement of properties was filed by the defendants, which came to be allowed and consequently,

measurement of land bearing survey no.199 was carried out.

4. On the basis of the said measurement report, the defendant nos.4 to 6 filed an application for addition of names of four persons as party defendants. These four individuals are stated to be owners/occupiers of different portions in land bearing survey no.199. Referring to the measurement map, the defendant nos.4 to 6 raised a contention that since there was encroachment over land of the plaintiff from the northern side, the plaintiff were committing encroachment on the southern side over the land owned by the defendant nos.4 to 6. The said application filed vide Exhibit 138 is allowed by the learned Trial Court vide order dated 28.10.2021. The present petition is filed by proposed defendant nos.8 and 9. The learned Advocate for the petitioners contends that the dispute between the plaintiffs and defendants pertains to southern portion of survey no.199. He contends that the land of present petitioners is situated towards the northern side of the suit property and there is one more land intervening the suit property and the land owned by the present petitioners, which is belonging to one Mr. Pandit. He therefore contends that the present petitioners are neither necessary nor proper parties to

the suit. He also contends that the learned Trial Court has erred in ordering joinder of parties at the behest of the defendant. The learned Advocate for the plaintiffs supports the petition and adopts the contentions raised by the learned Advocate for the petitioner.

5. As against this, learned Advocate for the original defendant nos.4 to 6 supports the order. His contention is that lands owned by the proposed defendants, the original plaintiff and original defendants are adjoining each other. He contends that the lands of the defendants is situated along the southern side of the land of the original plaintiff. His contention is that because there is an encroachment from the northern side over the land of the plaintiff as can be seen from the measurement report at Exhibit 132, the plaintiff is trying to encroach the land owned by the defendant nos.4 to 6. The learned Advocate therefore contends that the proposed defendants are necessary parties and in any case proper parties to the suit.

6. The learned Trial Court has allowed the application for addition of parties, principally relying upon the measurement report at Exhibit 132, which demonstrates that there is some encroachment over the suit property owned by the petitioner

from the northern side by the proposed defendants. On this basis, the application has been allowed. The learned Trial Court has observed that the suit of the plaintiff is a suit claiming declaration of ownership of land admeasuring 96R in survey no.199 and consequential relief of perpetual injunction.

7. Perusal of prayer clause in the plaint which is quoted above, will indicate that the declaration sought by the plaintiff is that the sale deed executed by defendant no.1 in favour of defendant nos.4 to 6 is not binding on them. The plaintiffs have referred to the southern boundary of their land as bandh/dhura of survey no.86/A and land owned by one Panchavati Bai Ramrao Awargaonkar. In order to succeed in the suit, the plaintiff will have to demonstrate that their portion of land in survey no.199 commences from the said southern boundary. In the event, the plaintiffs are unable to prove the said contention, the suit with respect to perpetual injunction must fail. Perusal of sale deed executed by defendant no.1 in favour of defendant nos.4 to 6 will indicate that the defendant nos.4 to 6 claim ownership of 0.80HR land. According to defendant nos.4 to 6 the southern boundary

mentioned in the plaint is incorrect. The dispute between the parties therefore appears to be with respect to the southern boundary of their respective lands and location of the land. The present petitioners whose lands are situated at the northern side of the land of the plaintiff and that to after land of one Mr. Pandit, it is clear that the petitioners cannot be said to be necessary or proper parties to the suit.

8. In that view of the matter, Writ Petition will have to be allowed. Order dated 28.10.2021, passed by Jt. Civil Judge Senior Division Beed is quashed and set aside. Exhibit 138 is rejected with respect to the present petitioners i.e. proposed defendant nos.8 and 9.

9. Writ Petition is disposed of.

10. Civil Application, if any, stands disposed of.

(ROHIT W. JOSHI, J.)