

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
WRIT PETITION NO.4273 OF 2025**

Atmaram tukaram Bhuvad,
Age: 65 Years, Occ: retired,
R/o. Ekvira nagar, Near Yogita Dental College,
Tal. Khed, Dist. Ratnagiri.

..Petitioner

Versus

1. Ramdas Ganjaram Kadam,
Age - 60 years, Occupation-Politican/builder
President, Shivtej Arogya Sanstha,
Dental College, Ekvira Nagar,
At post Taluka Khed. City Khed,
Dist- Ratnagiri, Pin 415709
2. Mr. Siddesh Ramdas Kadam,
Age - 28 years, Occupation -Builder
Residing: Yogita Dental College,
Ekvira Nagar, At post Taluka Khed.
City Khed, Dist- Ratnagiri, Pin 415709
3. Shivtej Aarogya Sanstha,
Yogita Dental College,
Ekvira Nagar, At post Taluka Khed.
City Khed, Dist- Ratnagiri, Pin 415709
4. Mohan Sitaram Bhuvad,
Age-28 years, Occupation - Farmer
5. Lakshmi Lakshman Pawar,
Age-44 years, Occupation - Agriculturist
Sr.no 4-5 Residing at- Yogita Dental College,
Ekvira Nagar, At post Taluka Khed. City Khed,
At post Taluka Khed. Ratnagiri
6. Shewanti Shrikant Temkar,
Age-45 years, Occupation - Agriculturist
Residing at Yogita Dental College,
Ekvira Nagar, At post Taluka Khed. City Khed,
At post Taluka Khed. City Khed, Ratnagiri
7. Late.Mr.Shivram Tukaram Bhuvad,
(Deceased through his legal heirs)
- 7A. Suvarna Shivram Bhuvad.
Age-69, Occ: Service

- 7B. Rajesh Shivram Bhuvad,
Age-50, Occ: Farmer
- 7C. Sandesh Shivram Bhuvad,
Age-47, Occ: service
Sr.no. 7A, 7B, 7C residing- ekvira Nagar,
Near Yogita dental College, Khed, Ratnagiri.
8. Vasant Tukaram Bhuvad,
Age-75 years, Occupation - Agriculturist
9. Anant Tukaram Bhuvad,
Age-63 years, Occupation -Service
10. Ravindra Tukaram Bhuvad,
Age 60 years, Occupation - Service
11. Sharad Tukaram Bhuvad,
Age-64 years, Occupation - Agriculturist
12. Vilas Tukaram Bhuvad
Age-52 years, Occupation - Agriculturist
13. Saraswati Ragunath Khambal
Age-68 years, Occupation - Household
All SR. No. 8 to 13, residing- Ekvira Nagar
Near Yogita Dental college,
at post taluka khed, Ratnagiri.
14. Vijay Shantaram Falke
Age-45 years, Occupation-service
15. Suraj Bhiku Falke,
Age-44, Occupation - Agriculturist
R.no. 14-15, residing at - Khari,
Taluka Khed, District- Ratnagiri.
16. Prakash Tukaram Bhuvad
Age. 42 years, Occ; Bussines
Sr.1-2 Residing at - Ekvira Nagar,
Near Yogita Dental College,
at post Taluka Khed, City khed.

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Mr. Rugwed R. Kinkar i/by Mr. Drupad Sopan Patil, Advocate for
Petitioner.

Mr. Shreyash Butala, Advocate for Respondent Nos.1 to 3.

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CORAM : S. G. CHAPALGAONKAR, J.

RESERVED ON : 11th SEPTEMBER, 2025.

PRONOUNCED ON : 17th SEPTEMBER, 2025.

JUDGMENT:-

1. Rule. Rule made returnable forthwith. With consent of parties, matter is taken up for final hearing at admission stage.
2. The present Writ Petition takes exception to order dated 13.08.2024 passed by learned Civil Judge Junior Division, Khed below Exhibit-272 in Regular Civil Suit No.95/2013.
3. The petitioner instituted Regular Civil Suit No.95/2013 seeking relief of possession, mandatory injunction and perpetual injunction against defendant nos.1 to 3. Subsequently, petitioner had sought amendment in plaint to incorporate relief of declaration against sale deed dated 06.02.1978 executed by original owner Sitaram Ghate in favour of purchaser Aminabee Husani, on the ground that it is invalid in terms of Section 64 of Maharashtra Tenancy and Agriculture Land Act, 1956 (for sake of brevity hereinafter referred as 'MTAL Act, 1956'). Although said amendment was allowed and incorporated in plaint by subsequent order of this Court, amendment was refused and prayer in respect of sale deed was deleted.
4. The defendant nos.1 to 3 filed application below Exhibit-272 seeking issuance of direction against plaintiff to make proper valuation of suit and pay proper Court Fees and in default sought dismissal of suit. According to defendants, plaintiff has not properly valued claim as per claim clause 11(A). The learned Trial Judge observed that as per

Section 6(iv)(d) of Maharashtra Court Fees Act, 1959 (for sake of brevity hereinafter referred as 'Act, 1959') any suit for declaration in respect of ownership or nature of tenancy, one fourth of *ad valorem* fee leviable for a suit for possession on the basis of title of subject matter and in addition to said relief any consequential relief other than possession is sought, amount of fee shall be one-half of *ad valorem* fee and when consequential reliefs also sought include relief for possession amount of fee shall be full *ad valorem* fee. The learned Trial Court further observed that principal relief sought by plaintiff is declaration, which is susceptible to computation of Court Fee under Section 6(iv)(d) and in light of claim of relief of possession, plaintiff needs to pay full *ad valorem* fee. Hence, valuation for purpose of claim of possession of suit property is not correct. Eventually, Trial Court allowed application Exhibit-272 and directed plaintiff to compute suit as per Section 6(iv)(d) of Act, 1959 and pay requisite Court Fees, else suffered rejection of plaint under Order VII Rule 11 of Code of Civil Procedure.

5. Mr. Rugwed Kinkar, learned Advocate appearing for petitioner submits that petitioner prayed for relief of possession and injunction in respect of suit property. No declaratory relief is sought in plaint. In that view of matter, valuation of suit for relief of possession and injunction is appropriate. The learned Trial Judge has erroneously observed that suit is for declaration and ownership and, therefore,

plaintiff is required to compute suit as per Section 6(iv)(d) of Act, 1959.

6. Perusal of plaint, particularly prayer clauses depict that petitioner is seeking relief of possession and injunction. Eventually, he valued suit and paid Court Fees. The impugned order pre-supposes that plaintiff is seeking declaration of ownership and consequential relief of possession. Section 6(iv)(d) of Act, 1959 has application only when suit is filed seeking relief of declaration in respect of ownership. In present case, Trial Court has erroneously read prayers in suit assuming relief of declaration. In that view of matter, impugned order directing petitioner to make computation of suit as per Section 6(iv)(d) of Act, 1959 and consequential order under Order VII Rule 11 of Code of Civil Procedure cannot be sustained. Hence, following order:

ORDER

- a. Writ Petition is allowed in terms of prayer Clauses (A) and (B).
- b. However, since suit is pending for trial from 2013, Trial Court shall endeavour to dispose of suit expeditiously and in any case, within period of one year from today.
- c. Parties to co-operate.
- d. Rule is made absolute in above terms.

(S. G. CHAPALGAONKAR)
JUDGE