

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1637 OF 2026

Sanjay Mohan Jagdale And Ors
VERSUS
Jagubai @ Sunanda Bapurao Jadhav And Ors

Mr. Ratanrao Huded, Advocate for Petitioners

CORAM : SACHIN S. DESHMUKH, J.
DATE : 17th APRIL, 2026.

P. C. :

1. The Petitioner has raised an exception to the orders dated 23/02/2026 below Exhibit 192 and 196 rendered by 5th Jt. Civil Judge Junior Division, Karad, District: Satara in Reg. Civil Suit No. 469/2002.
2. The Petitioner are the original Defendants while the Respondents are the original Plaintiffs in the Suit instituted for partition and separate possession (Hereinafter the parties shall be referred as by their original status in the Suit).
3. In the interregnum, the Plaintiffs filed the applications seeking permission to produce evidence of Plaintiff No. 2A

contending that the Plaintiff No. 2A is the grand daughter of the deceased who is the owner of the ancestral properties in relation to which the Suit is filed. Plaintiff No. 2A being the grand daughter, stayed with the grand parents and had knowledge about the suit properties. As such, her evidence may be recorded.

4. The Trial Court after considering the submissions of both the parties, allowed the said applications by the orders under challenge. Aggrieved by the same, the Petitioners/original Defendants are before this Court.

5. Learned counsel for the Petitioners submit that the order under challenge is unsustainable in law. The Plaintiffs particularly, Plaintiff No. 2A has already examined herself through the appointed power of attorney holder and accordingly, the evidence was closed. As such, the Plaintiff despite having sufficient opportunity has voluntarily forsaken the right of examination. Thus, the attempt of Plaintiffs is to fill lacuna in the evidence which the Trial Court failed to consider and erred while passing the orders under challenge.

6. Having heard the submissions and upon perusal of the record indicates that the Suit was initially presented in the year 2002. The

Plaintiff No. 2A was minor at that time and was represented by the power of attorney holder. The Plaintiff No. 2A has explained the delay in filing the application for examination of evidence by attributing it to her job and other sufficient reasons.

7. The Trial Court has noted this fact and has imposed sufficient cost while allowing the applications compensating the petitioners. It is also observed that mere technicality ought not to defeat the ends of justice. The Plaintiff No. 2A is supposed to have knowledge in personal capacity in relation to the disputed Will Deed upon which the suit for partition is instituted. As such, allowing Plaintiff No. 2A to present evidence would not only be proper but necessary for the just adjudication of the suit.

8. Apart from the technicality and delay of presenting the said applications, there is nothing on record to indicate whether any prejudice would be caused to the Defendants. All these aspects are rightly considered by the Trial Court. Resultantly, no error is noted in the orders under challenge.

9. The Petition stands dismissed. No order as to costs.

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[SACHIN S. DESHMUKH, J.]