



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 1126 OF 2026

- 1) Sau. Sangeeta Sanjay Barshettiwar,
Aged about 49 years, Occupation-
Household, R/o. c/o Balu Burkewar,
Siraspeth, Umred Road, Nagpur.

... PETITIONER

...VERSUS...

- 1) Ashok s/o Ramchandra Koradwar,
Aged about 56 years,
Occupation: Cultivation, R/o Borgaon
(Kadu), Tah. Kelapur,
District – Yavatmal.
- 2) Sau. Pramila Ashok Bolewar,
Aged about 58 years,
Occupation- Household,
R/o. Telangtakli (Umri), Tah. Kelapur,
District- Yavatmal.
- 3) Sau. Meera Suresh Kayatwar,
Aged about 47 years,
Occupation: Household,
R/o Matharjuh, Tah. Zari,
District - Yavatmal

...RESPONDENTS

Mr. A. S. Dhore, Advocate for the petitioner

CORAM : NANDESH S. DESHPANDE, J.
DATED : 18th MARCH, 2026.

Shubham

ORAL JUDGMENT (NANDESH S. DESHPANDE, J.)

1. **Rule.** Rule is made returnable forthwith. Heard finally with the consent of the learned counsel for the parties.
2. The petition challenges the order dated 04.02.2019 passed below Exh. 88 and the order dated 18/07/2025 passed below Exh. 102 by the 2nd Jt. Civil Judge, Junior Division, Kelapur in Regular Civil Suit No. 73/2014, thereby allowing the objection filed below Exh. 88 and below Exh. 102 to discard the affidavit of evidence on behalf of the defendant.
3. The facts which are emerging from the petition are as under:-
 - (a) It is the contention of the learned counsel for the petitioner that R.C.S. No. 73/2014 was instituted for partition and granting her separate possession of a 1/5th Share in the suit property by the plaintiff.
 - (b) On 11.06.2018, after the evidence of the plaintiff, the respondents/defendants filed an affidavit of examination-in-chief in the name of Ashok Lacchamanna Koradwar.
 - (c) On 07.01.2019, the plaintiff has raised an objection to the

Shubham

said affidavit of evidence in the name of Ashok Lacchamanna Koradwar on the ground that the defendant no. 1 is joined in the name of Ashok Ramchandra Koradwar and no permission has been sought as required under Order 18 Rule 3-A of the Civil Procedure Code, 1908 (hereinafter referred to as "C.P.C.") for examining any other person, and therefore the affidavit of examination-in-chief of Ashok Lacchamanna Koradwar be discarded. On 04.02.2019, the said objection was rejected by the trial Court.

(d) Thereafter on 16.03.2024, the counsel for the petitioner appeared before the trial Court and filed a similar objection to the affidavit of evidence filed on behalf of the defendants, which came to be rejected on 18.07.2025. This order is impugned in the present petition.

4. I have gone through the record of the matter. The application filed by the plaintiff i.e. the petitioner herein, places reliance on the provisions of Order 18 Rule 3-A of the C.P.C. as there is some variance in the name of the defendant. It is the contention of the learned counsel for the petitioner that the trial Court has erred in rejecting the said objection. However, when confronted, the only

Shubham

provision of law in which the learned counsel for the petitioner has placed reliance is Order 18 Rule 3-A of the C.P.C. I find nothing in the said provision which would enable the petitioner to file such an objection. Reliance placed on such provision is entirely misconceived and without any basis.

5. Furthermore, as can be seen from the facts, that earlier also the same objection was filed and rejected by the trial Court vide order dated 18.07.2025. The perusal of the impugned order shows that there is no perversity in the impugned order inasmuch as the trial Court has recorded a finding that this Court has the power to examine any other person as a witness before examining a party. Furthermore, all these facts can be narrated and elucidated in the cross-examination which the petitioner would conduct of the said witness.

6. In that view of the matter, the challenge in the petition is lacking in merit, and the petition is accordingly rejected.

7. Rule stands discharged.

(NANDESH S. DESHPANDE, J.)

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