



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

**APPEAL FROM ORDER NO.70 OF 2025
WITH
CIVIL APPLICATION NO.10412 OF 2025
IN
APPEAL FROM ORDER NO.70 OF 2025**

1. Vikram Anilkumar Patel
Age: 48 years, Occu: Business,
R/o: 180/1, Radhakrushna Kutir,
Visanji Nagar, Gujrathi Galli Jalgaon,
Tal & Dist. Jalgaon.
2. Darshan Anilkumar Patel
Age:46 Years, Occu.: Business,
R/o. Kalpita Enclave CHS, E1 Building,
Flat No. 1 & 2, Ground Floor,
Sahar Road, Koldongari,
Andheri (E), Mumbai-400069
3. Smt. Gitaben Anilkumar Patel
Age: 67 Years, Occu.: Housewife
3 & 4 R/o. 180/1, "Radha Krishna Kutir",
1st Floor, Gujarati Galli, Jillha Peth,
Jalgaon-425001

..Appellants
(Org. Plaintiffs)

Versus

1. Savitaben W/o Pravinchandra Patel,
Age; 73 years, Occu: Business,
2. Mrs. Kalpita W/o Deelipkumar Patel
Age: 52 years, Occu: Business,
3. Mrs. Alpita Jayesh Soni
Age: 52 years, Occu: Business,
4. Mrs. Trupti Amish Kothari
Age: 46 years, Occu: Business,
All R/o: 40, 41 Patel Bunglow
Next to Collector Bunglow, Girna Tank Road
Jalgaon, Tal. & Dist. Jalgaon.

5. Varco Vishva Realties
Registered Partnership Firm,
Laxmi Residency, Near
Mahadeo Mandir, Yavatmal,
Pin Code-445 001.
Through its Partners
- A] Anand Rameshchandra Mor
Age: 54 years Occu: Agri and Business
R/O. Om Varco Regency, Dhamangaon Road,
Yavatmal-445 001.
- B) Vikramsingh Argunsingh Dalwala
Age: 50 years Occu: Agri and Business
R/O. Om Varco Regency, Dhamangaon Road,
Yavatmal-445 001.
- C) Sanjay Rameshchandra Bajaj
Age: 51 years Occu: Agri and Business
R/O. Om Varco Regency, Dhamangaon Road,
Yavatmal - 445 001
- D] Kishor Vishwanath Bhut
Age: 47 years Occu: Agri and Business
R/O. MIDC, Sevagram Road,
Vardha-442 102.
- 6] Chetan Anilkumar Patel
Died through LRs
- 6-A] Amita Chetan Patel
Age: 50 years, Occu: Household,
- 6-B] Meet Chetan Patel
Age: 17 years, Occu: Education,
- 6-C) Meer Chetan Patel
Age: 17 years, Occu: Education,
Resp. No.6-B and 6-C under Guardian to 6-A
All R/o: B-501, Zion Winfeild,
Opp. Ishan Bunglow, Near Villa Bunglow,
Thltej Shilaj Road, Shilaj
Ahmedabad 380 059 (State of Gujrat)

..Respondents
(Org. Defendants)

AND
APPEAL FROM ORDER NO.74 OF 2025
WITH
CIVIL APPLICATION NO.11018 OF 2025
IN
APPEAL FROM ORDER NO.74 OF 2025

1. Vikram Anilkumar Patel
Age: 48 years, Occu: Business,
R/o: 180/1, Radhakrushna Kutir,
Visanji Nagar, Gujrathi Galli Jalgaon,
Tal & Dist. Jalgaon.
2. Darshan Anilkumar Patel
Age:46 Years, Occu.: Business,
R/o. Kalpita Enclave CHS, E1 Building,
Flat No. 1 & 2, Ground Floor,
Sahar Road, Koldongari, Andheri (E),
Mumbai-400069
3. Smt. Gitaben Anilkumar Patel
Age: 67 Years, Occu.: Housewife
3 & 4 R/o. 180/1, "Radha Krishna Kutir",
1st Floor, Gujarati Galli, Jilla Peth,
Jalgaon-425001
Through General power of Attorney
Vikram Anilkumar Patel
Age: 48 years, Occu: Business,
R/o:As above.

..APPELLANTS
(Org. Plaintiffs)

Versus

1. Savitaben W/o Pravinchandra Patel,
Age; 73 years, Occu: Business,
2. Mrs. Kalpita W/o Deelip Patel
Age: 52 years, Occu: Business,
3. Mrs. Alpita Jayesh Soni
Age: 52 years, Occu: Business,
4. Mrs. Trupti Amish Kothari
Age: 46 years, Occu: Business,
All R/o: 40, 41 Patel Bunglow
Next to Collector Bunglow, Girna Tank Road
Jalgaon, Tal. & Dist. Jalgaon.

5. Bharat Ramdas Patil
Age: 74 years Occu: Agri
R/O. 42/, P No. 15, Block No.5,
Sadguru Nagar, Near Siddi Vinayak School,
Jalgaon
6. Amol Nilkhanth Jadhav
Age: 37 years Occu: Agri
R/O. P No.29, Gut No. 135,4
Jijao Nagar, Near Himanshu General Store
Savkheda Shivar, Jalgaon
7. Chetan Anilkumar Patel
Died through LRs
- 7-A] Amita Chetan Patel
Age: 51 years, Occu: Household,
- 7-B] Meet Chetan Patel
Age: 17 years, Occu: Education,
- 7-C] Meer Chetan Patel
Age: 17 years, Occu: Education,
Resp.No. 6-B to 6-C are minor through natural guardian. 6-A
All R/o: B-501, Zion Winfeild,
Opp. Ishan Bunglow, Near Villa Bunglow,
Thltej Shilaj Road, Shilaj
Ahmedabad 380 059 (State of Gujrat) ..RESPONDENTS
(Org. Defendants)

...

Mr. N. B. Khandare, Senior Advocate i/by Mr. A. R. Syed, Advocate for Appellants.
Mr. M. R. Sonawane, Advocate for Respondent Nos.1 to 4 and 6A to 6C.
Mr. Mukul S. Kulkarni, Advocate for Respondent Nos.5A to 5D.
Mr. V. B. Patil, Advocate for Respondent Nos.1 to 6 in WP/74/2025.
Mr. C. V. Borse, Advocate for Respondent Nos.7A to 7C in WP/74/2025.

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CORAM : S. G. CHAPALGAONKAR, J.
DATED : 11th JUNE, 2026.

JUDGMENT:-

1. The present Appeals takes exception to orders dated 25.08.2025 and 10.09.2025 passed below Exhibit-6 by Civil Judge

Senior Division, Jalgaon in Special Civil Suit Nos.168/2024 and 167/2024 respectively, whereby appellants' prayer for temporary injunction restraining defendants from alienating or creating third party rights/interest in suit properties has been declined.

2. There is chequered history giving rise to present Appeal. The facts, shorn of unnecessary details, which require reference for adjudication of dispute, are as under:

Late Jinabhai Raviji Patel was head of family. He died in year 1958 leaving behind five sons and three daughters. After separation of joint family, two sons of Jinabhai namely Pravinchandra and Anilkumar continued joint business, which consists of several establishments. In year 1996, dispute erupted amongst Pravinchandra and Anilkumar. They consensually decided to resolve disputes through arbitration. The Arbitrators were closely associated with family. Accordingly, first Award dated 07.07.1996 and second Award dated 03.11.1996 came to be passed. There is one more Award dated 01.03.2005, existence whereof is subject matter of dispute in present Appeal.

3. The appellants filed Special Civil Suit Nos.168/2024 and 167/2024 contending that on 28.02.2005 by consent of parties, Bhagwandas Jinabhai Patel i.e. brother of Pravinchandra and Anilkumar was appointed as Arbitrator. The consensual Award

was passed, whereby distribution of properties as indicted in previous Award was modified to certain extent and part of suit properties were allotted to branch of Anilkumar. The Special Darkhast No.1351/2015 has been filed for execution of Award of 1996, whereas Arbitration Regular Darkhast No.89/2017 is filed in respect of Award of 2005. On 16.09.2023 Executing Court passed order of attachment of property and transmission of precept to Collector for execution of Award of 1996. The said order was challenged by appellants in Writ Petition No.11825/2023. The said Writ Petition has been disposed of by this Court vide judgment and order dated 17.04.2024. It is observed in paragraph no.54 that all Awards have an effect on each other. Therefore, decree holder is directed to add the Award (Original or Certified copy) dated 01.03.2005 for complete execution. If decree holder fails, judgment debtor should place its certified copy/original on record with an application to make it part of record. The operative part of order states that impugned order dated 16.09.2023 passed below Exhibit-31 in Special Darkhast No.1351/2015 is modified. The matter is remitted to Executing Court to follow procedure under Sections 37 and 38 of Indian Stamp Act and Section 17 of Registration Act and then sent precept to Collector for effecting mutation entries in names of decree holder and judgment debtors of undisputed properties came to their shares.

4. It is contention of appellants that during pendency of aforesaid disputes, respondent nos.1 to 4 executed gift deed no.3239/2024 and sale deed no.3233/2024 dated 08.09.2024 in favour of respondent/defendants in respect of suit properties with intention to frustrate right of deceased Anilkumar and his heirs. Accordingly, relief of declaration is sought against sale deed and gift deed dated 08.09.2024. Consequently, relief of possession of suit property is also claimed. Lastly, vide application Exhibit-6 relief of temporary injunction was sought against defendant nos.5 and 6/purchasers from alienating or creating third party interest in respect of suit properties.

5. The respondents/defendants opposed application by filing reply contending that Award dated 07.07.1996 has been upheld upto Supreme Court and same has attained finality. The Award being decree under Section 36 of Arbitration and Conciliation Act, 1996 was put to execution. The Executing Court had passed order directing mutation in name of defendant nos.1 to 4. Eventually, names of defendant nos.1 to 4 were lawfully entered in record of rights. They have lawfully sold their shares to defendant nos.5 and 6. It is their contention that even plaintiffs have sold properties falling to their shares. The Trial Court, *prima facie*, observed that plaintiffs have failed to place on record copies of all Awards. The defendants disputed Award of 2005. The plaintiffs could not

establish their title in respect of suit property. The transactions which are subject matter of suit would be governed by principles of *lis pendens*. Hence, plaintiffs are not entitled for discretionary relief of temporary injunction as claimed.

6. Mr. Khandare, learned Senior Advocate appearing for appellants submits that transactions which are subject matter of suit have been effected by defendants during pendency of matter before Supreme Court, particularly when parties were directed to explore possibility of amicable settlement through mediation process. The five properties which were allotted to shares of Anilkumar Patel under Award dated 01.03.2005 have been sold. Mr. Khandare would submit that there are three arbitral Awards which are under execution before Competent Court. The respective parties are entitle to be placed in possession of their allotted portions. However, properties which were originally stood in name of Anilkumar Patel have been mutated in name of respondents on 29.11.2023 in a single day. Pursuant thereto impugned gift deed and sale deeds dated 08.09.2024 and 17.09.2024 have been executed creating rights over suit properties in favour of third parties. The conduct of respondents is clear attempt to defeat execution proceeding and frustrate Award. The Trial Court has failed to consider *prima facie* case and erroneously observed that

copies of Awards are not filed although those were very much available before Trial Court.

7. Per contra, Mr. Mukul Kulkarni, learned Advocate appearing for respondent nos.5A to 5D would submit that Award dated 07.07.1996 and supplementary Award dated 03.11.1996 has attained finality. The mutation entries were recorded in name of defendants in pursuance to execution of those Awards. The third Award dated 01.03.2005 is seriously disputed by defendants. He would point out that Mr. B. J. Patel alleged Arbitrator purchased Stamp Paper of Rs.100/- on 28.02.2005 and immediately on next day i.e. on 01.03.2005 third Award is shown to have been passed. The original Award or signed Award or certified copies of Award has not seen light of day till date. The plaintiffs are relying upon certified true copies of alleged Awards. The branch of Pravinchandra/defendant never received this Award and seriously disputing its existence.

8. He would further point out that Miscellaneous Civil Application No.202/2005 was filed under Section 34 of Arbitration and Conciliation Act, 1996 by Anilkumar and his branch. However, there is no whisper of so called third Award dated 01.03.2005. First time certified copy of Award dated 01.03.2005 is filed in Arbitration Regular Darkhast No.89/2017. However, from original record of Arbitration Regular Darkhast No.89/2017, it

would discernible that it is only certified true copy and not original certified copy of Award as claimed. Mr. Kulkarni submits that in view of Section 31(5) of Arbitration and Conciliation Act, 1996 r/w Sections 76 and 77 of Indian Evidence Act a signed copy of arbitral Award needs to be delivered to each party. In absence of production of signed copy of arbitral Award, existence of third Award cannot be presumed.

9. In light of controversy posed before this Court, original record of Arbitration Regular Darkhast No.89/2017 has been called. Perusal of Award shows that it bears stamp as “certified true copy” by Mr. B. J. Patel and same bears his signature. *Prima facie*, it is photocopy copy of Award and endorsed as “certified true copy” by Arbitrator Mr. B. J. Patel. The Award appears to be in Gujarati language and translated copies are filed on record before Trial Court.

10. Mr. Khandare relying upon observations of Single Judge of this Court in *Writ Petition No.6091/2022 (Rahul Omprakash Gandhi Vs. The Akola Janta Commercial Co-Operative Bank Limited, Pusad Branch)* alongwith companion matters decided on **10.04.2023** submits that delivery of award as contemplated in Section 31(5) has effect of setting in motion time periods, within which remedies available are to be availed of by party. It is in this context it has to be understood that the signed

copy of the award has to be delivered to 'party', as defined in Section 2(h) of Arbitration and Conciliation Act. The delivery of signed copy of award, is therefore information, brought to notice and knowledge of each party, as to the contents of award. The purpose of the provision, of imparting knowledge to 'party', as to contents of award, is achieved whether a signed copy is delivered or certified copy of signed award is obtained by 'party'. By relying upon observations of this Court in case of *Hi Style India Pvt. Limited Vs. Rakesh Corporation*¹, he submits that Section 31(5) of Act uses expression "signed copy". Copy is generally understood as something different from original. Legislature did not use expression "signed award". Thus, Arbitrator is not required to deliver to parties award signed by members of Arbitral Tribunal, as mentioned in Section 31(1) of Act, but merely a "copy" thereof. The purpose of qualifying word "copy" with "signed" is that there must be some authentication of "copy". If it were to be held that "copy" must be "ink signed" by arbitrators, then it will not be a "copy" but be award signed by arbitrators. That is only possible meaning of words "signed" and "copy" used in conjunction. He further submits that it was not intention of legislature that all copies of the award, dispatched to respective parties would have to be separately signed by learned arbitrators. A certified photocopy of original award along with signatures of members of the Arbitral Tribunal would

¹ 2025:BHC-OS:21462.

suffice. It is not intention of Legislature that all copies of award required to be furnished to the respective parties to a multi party arbitration, should actually be signed by members of Arbitral Tribunal themselves and/or in other words, each of copies should contain original signatures of arbitrators, Parliament would, perhaps, not have used expression 'signed copy of the award' but used expression 'a copy of the award, duly signed by arbitrators', in Section 31(5) of 1996 Act. According to Mr. Khandare, in present case what is supplied to parties is signed certified copy of Award. By referring to signed certified copy filed in Arbitration Regular Darkhast No.89/2017, he submits that there is no scope to dispute existence of Award.

11. Perusal of impugned order depicts that there is absolutely no consideration on the point of existence or non-existence of Award of 2005, although original certified copy as alleged to be received by appellants is part of Arbitration Regular Darkhast No.89/2017 and copy thereof is also part of proceeding in instant suit. The Trial Court erroneously observed that all three Awards are not available on record despite defendants objected Award as forged one. This observations appears to be inconsistent with record. The appellants have specifically contended that original signed certified copy of Award was received to them and that is made part of execution proceeding. There was no reason to observe that copy of

disputed Award of 2005 is not placed on record. It would be a matter for appreciation by Trial Court as to whether copy of Award placed on record can be accepted as proof thereof. However, observation that such copy has not been filed appears to be fallacious. *Prima facie*, from observations recorded by this Court in judgment dated 17.04.2024 delivered in Writ Petition No.11825/2023, there appears existence of three Awards. Therefore, directions were given to place third Award dated 01.03.2005 before Executing Court. The Trial Court could have called for original record from Arbitration Regular Darkhast No. 89/2017 to verify whether such Award is available and whether reliance can be placed thereon, particularly in light of law laid down by this Court as well as Supreme Court in judgments relied upon on behalf of appellants.

12. In light of aforesaid circumstances, this Court finds that impugned order deserves to be quashed and set aside and matter needs to be relegated back for reconsideration of Exhibit-6 by Trial Court for recording findings after considering singed copy of Award of 2005 relied upon by appellants. Hence, following order is passed:

ORDER

a. Appeal from Orders are partly allowed.

- b. The impugned orders dated 25.08.2025 and 10.09.2025 passed below Exhibit-6 by Civil Judge Senior Division, Jalgaon in Special Civil Suit Nos.167/2024 and 168/2024 respectively are hereby quashed and set aside.
- c. The matters are relegated back for reconsideration of Exhibit-6 by Trial Court for recording findings after considering singed copy of Award of 2005.
- d. In view of disposal of Appeal from Orders, present Civil Applications also stand disposed of.

(S. G. CHAPALGAONKAR)
JUDGE