IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 397 OF 2025

WITH

INTERIM APPLICATION NO. 9307 of 2025

WITH

INTERIM APPLICATION NO. 10619 OF 2025

The State of Maharashtra,
Through Secretary,
Government of Maharashtra
Sachivalaya, Bombay - 32 ...Appellant

Versus

1. Chandrabai Balaji Walvekar
(Deceased And legal heirs are already on record)

2. Shankarrao Balaji Walvekar
(Since deceased through legal heirs)

2.1 Snehalata Shankarrao Walvekar (deceased)

ARUN RAMCHANDRA SANKPAL

Digitally signed by ARUN RAMCHANDRA SANKPAL
Date: 2026.06.30 22:46:14 +0530

2.2 Mohini Shivajirao Pawar
Age: 75 years

2.3 Vijay Shankarrao Walvekar
Age : 56 years,

2.4 Dilip Shankarrao Walvekar
Age : 53 years,

2.5 Deepak Shankarrao Walvekar
Age: 52 years,

2.6 Pradip Shankarrao Walvekar,
Age: 50 years,

Respondent No. 2.2 to 2.6 is residing at
8, Ganeshkhind Road,
Shivajinagar, Pune – 411 005.

3. Ramkrishna Balaji Walvekar,
(Since deceased through legal heirs)

3.1 Anusayabai Ramkrishna Walvekar
(Deceased)

3.2 Meena Ramesh Rathod
Age: 50 years,

3.3 Vandana Raghunath Bankapure
Age: 52 years,

3.2 to 3.3 R/at : U.S.A.

4. Mahadeo Balaji Walvekar
(Since deceased through legal heirs)

4.1 Shantabai Mahadeo Walvekar (deceased)

4.2 Kiran Mahadeo Walvekar
Age: 55 years,

4.3 Manoj Mahadeo Walvekar
4.2 to 4.3 R/at : Ganeshkhind,
Shivajinagar, Pune.

5. Laxman Balaji Walvekar
(Since deceased through legal heirs)

5.1 Prabhavati Laxman Walvekar (deceased)

5.2 Pramod Laxman Walvekar
Age: 32 years.

5.3 Pravin Laxman Walvekar
Age: 48 years.

5.4 Pritam Laxman Walvekar
Age: 52 years.

R/at: 1st floor, S Ganeshkhind Road
Shivajinagar, Pune – 411 005.

6. Suryakant Balaji Walvekar
(Since Deceased through legal heirs)

6.1 Gulabbai Suryakant Walvekar
Age: 70 years,
R/at : 1st Floor, S Ganeshkhind Road,
Shivajinagar, Pune – 411 005.

6.2 Smita Bhulesh Kirad,
Age: 45 years,
R/at 403, 4th floor,
Mithila Apartment Model Colony,
Near Deep Bungalow Chowk
Pune – 411 016.

6.3 Ravindra Suryakant Walvekar
Age : 62 years

6.4 Ranjana Suryakant Walvekar
Age : 65 years

6.5 Sunil Suryakant Walvekar
Age : 65 years

6.6 Purnima Mohan Kolhapure
Age: 59 years
Respondent Nos. 6.3 to 6.6
R/at : 1st Floor,
8, Ganeshkhind Road Shivajinagar,
Pune – 411 005.

7. Arvind Balaji Walvekar,
Age: 34 years, Occu: Agriculturist,
R/at : 8 Ganeshkhind Road Shivajinagar,
Pune – 411 005.

8. Shivaji Balaji Walvekar
(Since deceased through legal heirs)

8.1 Sarika Shivaji Walvekar,
Age: 48 years

8.2 Samita Shivaji Walvekar,
Age: 47 years

8.3 Teena Shivaji Walvekar,
Age: 45 years,
Respondent Nos. 8.1 to 8.3 are
residing at R/at : Ganeshkhind Road
Shivajinagar, Pune – 411 005. …Respondents

WITH

SECOND APPEAL (ST) NO. 25320 OF 2025

IN

INTERIM APPLICATION (ST) NO. 25639 OF 2025

WITH

INTERIM APPLICATION (ST) NO. 25641 OF 2025

1. Girish Pandurang Gavandi … Appellants
Age – about 90 years, (Original
Occ-Retired Interveners)
R/at G3, Swamivivek Marg,
Bibwewadi, Pune

2. Jagdish Pandurang Gavandi
Age – about 84 years, Occ – Retired
R/at 361/18, Mira Society,
Shankarsheth Road,
Pune.

3. Kishori Datta Naik,
Age – about 87 years, Occ- Retired,
R/at B-1, Rushikesh Society,
Gokhale, Road,
Shivajinagar, Pune

Versus

1. Chandrabai Balaji Walvekar
(Since deceased, legal heirs already on record)

2. Shankarrao Balaji Walvekar

Since deceased through legal heirs

2A. Snehalata Shankarrao Walvekar
(Since deceased)

2B. Mohini Shivajirao Pawar,
Age-75 years, Occ – Retired

2C Vijay Shankarrao Walvekar
Age- 56 years, Occ – not known

2D. Dilip Shankarrao Walvekar
Age – 53 years, Occ – not known

2E. Deepak Shankarrao Walvekar
Age – 52 years, Occ – not known

2F. Pradip Shankarrao Walvekar,
Age: - 50 years, Occ – not known

Respondent Nos.2B to 2F residing at
8 Ganeshkhind Road, Shivajinagar,
Pune 411 005.

3. Ramkrishna Balaji Walvekar
(Since deceased through legal heirs)

3A. Anusayabai Ramkrishna Walvekar
(Since deceased)

3B. Meena Ramesh Rathod
Age: 50 years, Occ – not known

3C. Vandana Raghunath Bankapure
Age -52 years, Occ – not known

3B to 3C residing at United States of America.

4. Mahadeo Balaji Walvekar
(since deceased through legal heirs)

4A. Shantabai Mahadeo Walvekar
(since deceased)

4B. Kiran Mahadeo Walvekar
Age – 55 years, Occ – not known

4C. Manoj Mahadeo Walvekar
Age – 55 years, Occ – not known

4B and 4C residing at Ganeshkhind,
Shivajinagar, Pune.

5. Laxman Balaji Walvekar
(since deceased through legal heirs)

5A. Prabhavati Laxman Walvekar
(Since deceased)

5B. Pramod Laxman Walvekar
Age – 32 years, Occ – not known

5C Pravin Laxman Walvekar,
Age – 48 years, Occ – not known

5B and 5C residing at 1st floor,
Ganeshkind Road,
Shivajinagar, Pune 411 005.

6. Suryakant Balaji Walvekar
(Since deceased through legal heirs)

6A. Gulabbai Suryakant Walvekar,
Age- 70 years, Occ – retired

Residing at 1st floor, Ganeshkhind Road,
Shivajinagar, Pune 411 005.

6B. Smita Bhulesh Kirad
Age – 45 years, Occ – not known

6C Ravindra Suryakant Walvekar,
Age – 62 years, Occ – not knonwn

6D Ranjana Suryakant Walvekar
Age -65 years, Occ – retired

6E. Sunil Suryakant Walvekar,

Age – 65 years, Occ – retired

6F Purnima Mohan Kolhapure
Age -59 years, Occ – not known

6C to 6E residing at 1st floor,
8 Ganeshkhind Road,
Shivajinagar, Pune 411 005.

7. Arvind Balaji Walvekar
Age – 34 years, Occ – Agriculturist
R/at 8 Ganeshkhind Road, Shivajinagar,
Pune 411 005.

8. Shivaji Balaji Walvekar,
(since deceased through legal heirs)

8A Sarika Shivaji Walvekar
Age – 48 years, Occ – none

8B Samita Shivaji Walvekar
Age – 47 years, Occ – none

8C Teena Shivaji Walvekar
Age – 45 years, Occ – none

All 8A to 8C residing at Ganeshkhind Road,
Shivajinagar, Pune 411 005.

9. State of Maharashtra
Through Secretary, Government of Maharashtra,
Mantralaya, Mumbai 400 032
Served through the Office of the Government
Pleader, Appellate Side, High Court, Bombay.

...Respondents
(Original
Defendants)

Mr. Anil V Anturkar, Senior Advocate, with A.R. Patil, Addl GP, for the Appellant in SA/397/2025.
Mr. A.Y. Sakhare, Senior Advocate, with Sandeep D Paigude, Reshma C More, i/b Rohan Mirpure, for the Appellant in SAST/25320 of 2025.
Ms. Shruti Tulpule, for Respondents in both Petitions.

CORAM: N. J. JAMADAR, J.
RESERVED ON : 18th MARCH 2026
PRONOUNCED ON : 30th JUNE 2026

JUDGMENT:

1. The State Government is in appeal (SA No. 397 of 2025) being aggrieved by and dissatisfied with a judgment and order dated 3rd January 2025 passed by the learned District Judge, Pune in RCA No. 9 of 2016, whereby and whereunder the said Appeal preferred by the Appellant-original Defendant against a judgment and decree dated 30th October 1987 passed by the learned Civil Judge, Pune in SCS No. 111 of 1974, came to be dismissed and the Cross Objections filed by the Respondents-original Plaintiff, came to be partly allowed by directing an enquiry as to future *mesne profit* under Order XX Rule 12 of the Code of Civil Procedure, 1908 ("The Code").

2. The Applicants in Interim Application (Stamp) No. 25639 of 2025 in Second Appeal (Stamp) No. 25320 of 2025, who claim to be the legal representatives of the lessee and to whom the suit land was subsequently granted, seek leave to appeal against the impugned decree.

3. The dispute has a chequered history and awaits resolution for three quarters of a century. Yet, shorn of unnecessary details, the background facts necessary for the determination of this Appeal and the Applications for leave to Appeal can be noted as under:

3.1 The land bearing Survey No. 65/1 admeasuring 4 acres 11 gunthas, situated at Village Parvati, Tal Haveli within the limits of Pune Municipal Corporation ("the suit land") was initially a watan land of Deshpande family governed by the Paragana and Kulkarni Watan regime.

3.2 On 22nd April 1898 Trimbak Deshpande and Baburao Deshpande sold the suit land to Manohar Padalkar under a registered Sale Deed. The transferee and his successor in interest asserted and exercised absolute ownership rights over the suit land. Manohar Padalkar sold the suit land under a registered Sale Deed dated 9th September 1937 to Balaji Walvekar, the predecessor-in-title of the Plaintiff. The name of Balaji Walvekar came to be mutated to the Record of Rights of the suit land as a holder thereof.

3.3 In the year 1951, the State Legislature passed Act No. LX of 1950, The Bombay Paragana And Kulkarni Watans (Abolition) Act, 1950 ("the Watan Abolition Act 1950"). It *inter alia* provided that all Paragana and Kulkarni Watans shall be deemed to have been abolished and the watan lands stood resumed thereunder.

3.4 Section 4 of the Abolition Act 1950 made a provision for re-grant of land to the holder of the watan to which it appertained, on payment of the occupancy price equal to twelve times of the amount of the full assessment of such land, within a stipulated period. Failure of the

holder to pay the occupancy price within the stipulated period rendered the occupation of the holder unauthorized and empowered the Government to summarily eject such holder in accordance with the provisions of the Bombay Land Revenue Code 1879 ("the Code of 1879").

3.5 The State Government-Defendant contends that in pursuance of the provisions of the Abolition Act 1950, the Mamlatdar gave notice to Balaji Walvekar on 9th January 1953. In response thereto, Balaji filed an Application before the Mamlatdar and claimed that his predecessor-in-title had become the absolute owner of the suit land and that he was also paying *judi* in respect of the suit land and, therefore, he had acquired absolute ownership over the suit land. Thus, he was not required to pay the occupancy price. Yet if an order is passed to pay the occupancy price equivalent to six times of the revenue assessment, he would pay the same. Purportedly the said Application of Balaji was not decided.

3.6 On 14th march 1962, the Circle Officer gave a notice to Balaji that on account of his failure to pay the occupancy charges within the stipulated period, the possession of the suit land would be resumed on 20th March 1962.

3.7 Accordingly on 20th March 1962, the possession of the suit land was taken by the Circle Officer under a panchnama. At that time, the

lessee of Balaji, Pandurang Gopal Gawandi, the predecessor-in-title of the Applicants in IA No. 10619 of 2025 was in the occupation of the suit land.

3.8 In the meanwhile, entries were made in the Record of Rights of the suit land to the effect that the suit land was "Akari Pad" (resumed on account of failure to pay the occupancy price). Balaji passed away on 16th April 1967.

3.9 On 6th May 1964, the then Prant Officer (SDO), Pune, passed an order declaring that the suit land ceased to be a watan land. By a notice dated 9th May 1972, the Additional District Collector proposed to suo moto revise the said order and called upon the successor in interest of Balaji to show cause why the said order passed by the SDO dated 6th May 1964, should not be cancelled.

3.10 Thus, on 11th March 1974, the Plaintiffs instituted the suit before the Civil Court at Pune, seeking a declaration that the entries in the Record of Rights in respect of the suit land as "Akari Pad" had been effected illegally and the Plaintiffs title over the suit land was neither lost nor extinguished and the Plaintiffs are the full and absolute owners of the suit land, and the consequential relief of restoration of possession of the suit land from the Defendants.

3.11 The Plaintiffs claimed, Trimbak Deshpande and Baburao Deshpande were paying the *judi* (a rent imposed on free holding) and

full survey assessment of the suit land. Thus, the Deshpandes had become the absolute owners of the suit land with all the incidents of ownership. Balaji Walvekar also exercised proprietary and possessory rights over the suit land as an absolute owner thereof.

3.12 The Defendants resisted the suit on multifarious grounds. It was contended that the suit was barred by law of limitation. It was also controverted that the payment of *judi* does not confer full and absolute ownership of the watan land over the erstwhile Watandars. The suit land continued to be a watan land and was governed by the provisions of Watan Abolition Act 1950. It was, therefore, incumbent upon the erstwhile watandars to pay the occupancy price on or before 30th April 1956. Despite notice to Balaji, the then occupant, the occupancy price was not paid. Thus, under the provisions of Abolition Act 1950, the State had lawfully ejected the occupants from the suit land and resumed the possession thereof. The necessity of the suit land for re-settlement of the flood affected persons was also sought to be pressed into service.

3.13 The Plaintiffs examined Arvind Balaji Walvekar, Plaintiff No. 7. Defendants did not lead any oral evidence in the rebuttal. Both the parties placed on record a number of documents.

3.14 After an appraisal of the evidence and material on record, the learned Civil Judge was persuaded to partly decree the suit. It was held

that the Plaintiffs proved their title over the suit land. The suit land ceased to be the watan land. The resumption of the possession of the suit land by the Defendants was unlawful, the mutation entry of ("Akari Pad") in the Record of Rights of the suit land was illegal and the Plaintiffs were entitled to the recovery of possession of the suit land. Thus, the Defendants were directed to deliver possession of the suit land to the Plaintiff and also to mutate the name of the Plaintiffs to the Record of Rights of the suit land as the occupants thereof. The Trial Court, however, declined to direct an enquiry into the *mesne profit* as the suit land was lying fallow.

3.15 Being aggrieved, the Defendants preferred an Appeal before the District Court. The Plaintiffs filed cross-objection questioning the legality and correctness of the denial of *mesne profit.*

3.16 By the impugned judgment and decree, the learned District Judge dismissed the Appeal and partly allowed the cross-objection to the extent of enquiry into the future *mesne profit.*

3.17 The learned District Judge also returned a finding that the Applicants in IA No. 10619 of 2025 were not the necessary parties to the Appeal.

3.18 Being further aggrieved by and dissatisfied with the impugned judgment and decree, the State Government is in Second Appeal. The

Appellants in Appeal (Stamp) No. 25320 of 2025 are seeking leave to file an Appeal against the impugned judgment and decree.

3.19 The Appellants in Appeal (Stamp) No. 25320 of 2025 have also filed an Application being IA No. 10619 of 2025 in Appeal No. 397 of 2025, seeking a direction to the Appellant to implead the intervenors as party Respondents to the Second Appeal.

4. I have heard Mr. Anil Anturkar, the learned Senior Advocate for the Appellants-Defendants in SA No. 397 of 2025 and Mr. A.Y. Sakhare, the learned Senior Advocate for the Appellants in SA (Stamp) No. 25320 of 2025 and Applicants in IA No.10619 of 2025 and Ms Shruti Tulpule, the learned Counsel for the Respondents-Plaintiffs.

5. The learned Counsel took the Court through the pleadings, evidence and documents on record.

6. Mr. Anturkar, the learned Senior Advocate for the Appellants, would urge that despite concurrent findings by the Courts below, the instant Appeal presents substantial questions of law for consideration. It was submitted that, apart from misappreciation of evidence and misconstruction of documents, the Courts below were in error in not adverting to the issues of jurisdiction of the Civil Court to entertain a challenge of the present nature, the bar of limitation and the peremptory provisions of Maharashtra Hereditary Offices Act, 1874 (“the Hereditary Offices Act 1874”) and Watan Abolition Act 1950.

7. Amplifying the submissions, Mr. Anturkar would urge that, the Courts below committed a manifest error in placing the burden of proof on the Defendants. Mere payment of *judi* by itself can, under no circumstances, confer the absolute ownership on the Watandar and alter the character of the suit land from watan to freehold land.

8. Failure on the part of the Plaintiffs to place on record the terms of the settlement, under which the erstwhile Watandar Deshpandes were relieved of their hereditary duties and conferred absolute ownership over the suit land erodes the Plaintiffs claim.

9. The bar of jurisdiction under Section 4(1)(a) of the Maharashtra Revenue Jurisdiction Act, 1876 ("the Act of 1876") was clearly misconstrued by the Courts below. The Sub-Clause (1) of Section specifically excludes the jurisdiction of the Civil Court in relation to any property appertaining to the office of any hereditary officer appointed or recognised under the Hereditary Offices Act 1874.

10. Likewise, a suit instituted to seek a declaration in regard to the entries in the revenue record is also explicitly barred by the provisions of Act of 1876 and the Maharashtra Land Revenue Code, 1960 ("the Revenue Code 1960"). The Courts below were thus not justified in lightly brushing aside the jurisdictional challenge.

11. With the aforesaid preface to the challenge, Mr. Anturkar formulated five proposed substantial questions of law which arise for

consideration in this Appeal; a reference to which would be made a little later in this judgment.

12. Mr. Anturkar placed a very strong reliance on the Constitution Bench judgment in the case of **Collector of South Satara And Anr Vs Laxman Mahadev Deshpande and Ors,**[1] to drive home the point that mere commutation of services does not necessarily lead to change in the character of the watan land.

13. Mr Sakhare, the learned Senior Advocate for the Applicants, would submit that the predecessor-in-title of the Applicants have been in possession of the suit land since 1948 under a registered Lease Deed. In fact, the Plaintiffs had approached the Civil Court with the case of adverse possession. Though the Courts below have rendered a negative finding on the said issue, yet, the Plaintiffs would be bound by the pleadings in the Plaint. As the decree which may be eventually passed in the Second Appeal would have significant bearing on the rights of the intervenor and, thus, the Applicants deserve leave to assail the impugned judgment and decree by filing an Appeal though they were not parties before the District Court.

14. To this end Mr. Sakhare placed reliance on a judgment of the Supreme Court in the case of **H. Anjanappa & Ors Vs V. A Prabhakar & Ors.**[2]

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1 AIR 1964 SC 326.

2 2025 SCC OnLine SC 183.

15. Per contra, Ms Tulpule, the learned Counsel for the Respondents-Plaintiffs would submit that the Courts below have recorded concurrent findings of facts upon meticulous appraisal of the evidence. The evidence and material on record unmistakably indicates that the suit land ceased to be watan land before the Watan Abolition Act 1950, came into force. The Defendants thus could not have resumed the possession of the suit land by invoking the provisions contained in Watan Abolition Act 1950 as those provisions were not at all attracted.

16. Ms Tulpule would further submit that the documents emanating from, and maintained by, the Defendants thus indicate that suit land ceased to be a watan land. Moreover, the Defendants did not place on record the terms of settlement to show that despite the cessation of the hereditary services being rendered and demanded and payment of *judi* and full assessment, the suit land continued to be watan land.

17. In regard to the bar of jurisdiction, Ms. Tulpule would urge, the said ground was never raised before the trial Court. Nor does the bar of limitation sought to be canvassed raises any substantial question of law. The suit came to be instituted within 12 years from the date of dispossession, even if it were to be assumed that the suit was based on previous possession. On the aspect of the continuance of the land as watan land, Ms. Tulpule would urge the legal position is crystallised by

a catena of decisions. Thus, no question of law much less a substantial question of law arises for consideration.

18. In regard to the prayer of the Applicants in IA No. 10619 of 2025 to grant leave to prefer an Appeal, Ms. Tulpule would urge the Applicants have dis-entitled themselves from seeking any equitable relief as the Applicants have transferred their interest in the suit land in favour of the transferee, namely, Dattatray Dhone, and, therefore, Application for impleadment came to be rejected and the said rejection has attained finality.

19. Before adverting to appreciate the aforesaid submissions, in the light of the substantial questions of law formulated for consideration by Mr. Anturkar, it may be apposite to have a resume of the legal regime.

20. Under the Hereditary Offices Act 1874, “Watan property” means the movable or immovable property held, acquired, or assigned for providing remuneration for the performance of the duty appertaining to an hereditary office. It includes a right to levy customary fees or perquisites, in money or in kind, whether at fixed times or otherwise.

It includes cash payments in addition to the original watan property made voluntarily by the State Government and subject periodically to modification or withdrawal.

21. Hereditary Office is defined as under:

> "Hereditary Office" means every office held hereditarily for the performance of duties connected with the

> administration or collection of the public revenue or with the village police, or with the settlement of boundaries, or other matters of civil administration, The expression includes such office even where the services originally appertaining to it have ceased to be demanded.

22. “Watandar” is defined as under:

> "Watandar" means a person having an hereditary interest in a watan. It includes a person holding watan property acquired by him before the introduction of the British Government into the locality of the watan, or legally acquired subsequent to such introduction, and a person holding such property from him by inheritance. It includes a person adopted by an owner of a watan or part of a watan, subject to the conditions specified in sections 33 to 35.

23. Section 5 of the Hereditary Offices Act 1874 prohibits a Watandar from alienating watan and watan rights without the sanction of the State Government.

24. Section 15 of the Hereditary Offices Act 1874, empowered the Collector with the consent of the holder of the watan given in writing, to relieve him and his heirs and successors in perpetuity of their liability to perform services upon such conditions, whether consistent with the provisions of that Act or not, as may be agreed upon by the Collector and such holder. Sub-Section (3) of Section 15 declares that every settlement made or confirmed under that Section would be binding upon both the State Government and holder of the watan and his heirs and successors.

25. Section 65 of the Hereditary Offices Act 1874 mandates the Collector to prepare and keep all Registers necessary for the purposes of that Act in the form which the State Government may from time to time prescribe. There shall one Register of lands and allowances in consideration whereof liability to perform services exists and another of lands and allowances in respect of which no such liability exists.

26. The State Legislature introduced the Watan Abolition Act 1950 to abolish the Paragana and Kulkarni Watans as the services of Watandar holding Paragan and Kulkarni Watans were no longer required.

27. Section 3 declared that on and from the appointed day, notwithstanding anything contained in any law, usage, settlement, grant, sanad or order, all Paragana and Kulkarni watans shall be deemed to have been abolished and all rights to hold office and any liability to render service appertaining to the said watans were hereby extinguished.

28. Under Sub-Section (3) of Section 3 of the Abolition Act 1950, watan land stood resumed and shall be deemed to be subject to the payment of land revenue under the provisions of the Code as if it were an unalienated land. Sub-Section (4) of Section 3 extinguished all incidents appertaining to the said watans. The provisions contained in Section 4(1) of the Abolition Act 1950 have a material bearing on the determination of the controversy at hand. It reads as under:

> "4. Holder of watan land to be occupant.
>
> (1) A watan land resumed under the provisions of this Act shall subject to the provisions of section 4A be regranted to the holder of the watan to which it appertained, on payment of the occupancy price equal to twelve times of the amount of the full assessment to such land within five years from the date of the coming into force of this Act and the holder shall be deemed to be an occupant within the meaning of the Code in respect of such land and shall primarily be liable to pay land revenue to the State Government in accordance with the provisions of the Code and the rules made thereunder; all the provisions of the Code and rules relating to unalienated land shall, subject to the provisions of this Act, apply to the said land:
>
> Provided that in respect of the watan land which has not been assigned towards the emoluments of the officiator, occupancy price equal to six times of the amount of the full assessment of such land shall be paid by the holder of the land for its regrant:
>
> Provided further that if the holder fails to pay the occupancy price within the period of five years as provided in this section, he shall be deemed to be unauthorisedly occupying the land shall be liable to be summarily ejected in accordance with the provisions of the Code.

29. In the light of the aforesaid statutory regime, the proposed substantial questions of law formulated by Mr. Anturkar for consideration, deserve to be analyzed.

Q.1 Whether in the light of the admitted fact that the suit property is land governed by the provisions of the Hereditary Offices Act, it can be held that by virtue of the payment of *judi* and the settlement arrived at between the ancestor of the parties and the Government of

Maharashtra, the property ceased to be a Watan property?

Q5. Whether, even assuming without admitting that a settlement or arrangement as alleged by the Plaintiff was arrived at regarding the payment or discharge of *Judi* or assessment in a particular manner, the Watan nevertheless continued to exist until its abolition under the Bombay Paragana and Kulkarni Watan Abolition Act? And if so, whether after such abolition, the Watan having stood extinguished and the Watan holder having failed to pay the amount within the prescribed time under the said Act, the State rightfully resumed possession of the suit property from persons in unauthorized occupation thereof, considering further that the original sale and subsequent transactions were effected without obtaining the requisite permission under the Hereditary Offices Act?

30. The thrust of the submission of Mr. Anturkar was that despite the cessation of extraction of services from the erstwhile Watandar, the character of the watan land does not change. The only recourse available to the Watandar/occupant after the enforcement of the Watan Abolition Act, 1950 was to obtain re-grant of the watan land as an occupant thereof upon payment of the occupancy charges. Laying emphasis on the phraseology of Section 4 of the Watan Abolition Act, 1950, Mr Anturkar would urge, the failure on the part of Balaji to pay the occupancy charges despite ample opportunity entailed the consequence of resumption of the suit land by the Defendants.

31. Mr. Anturkar would further submit that the claim of the Plaintiffs that as the late Balaji and the predecessor-in-title of the Balaji purportedly paid the *judi* and full assessment, the suit land ceased to be watan land and erstwhile Watandar became the absolute owners of the property is in teeth of the express statutory provisions.

32. Mr. Anturkar would urge in view of the provisions of Section 5 of the Hereditary Offices Act, 1874, the transfer of the suit land by the Deshpandes to Padalkar was itself void. Thus, no better title could be conveyed by the successor in interest of Deshpandes to late Balaji.

33. At this juncture few uncontroverted facts which have been affirmed by concurrent findings of facts are required to be noted.

34. First, the Deshpandes were the Watandars. Second, the Deshpandes alienated the suit land under a registered Sale Deed dated 22nd April 1898 in favour of Padalkar, without obtaining sanction for alienation under Section 5 of the Hereditary Offices Act, 1874. Third, the Sale Deed recited, the Deshpandes asserted absolute ownership over the suit land and claimed that they had been paying *judi,* and the Vendee should continue to pay the *judi* to enjoy the absolute ownership over the suit land. Fourth, Manohar Padalkar further alienated the suit land in favour of Balaji under the registered Sale Deed dated 9th September 1937. Fifth, Balaji continued to be in occupation of the suit land till he was dis-possessed on 20th March 1962. The name of Balaji

was mutated to the Record of Rights of the suit land as a holder thereof. Sixth, Balaji also paid *judi* and full assessment.

35. As noted above, under Section 15 of the Hereditary Offices Act 1874, the Collector has the power to relieve the Watandar of their liability to perform services and, yet, continue to hold the watan. Admittedly, in the case at hand, the Settlement, which is known as "Gordon Settlement" was not placed on the record of the Court.

36. In the light of the continuous possession of Balaji and his predecessor-in-title, mutation of their names to the Record of Rights of the suit land and the payment of *judi* and full assessment, the Courts below have recorded a finding that the Defendant ought to have placed the Settlement, on the record of the Court, to show to the contrary. In the circumstances of the case, this Court does not find the approach of the Courts below in the matter of shifting the onus of proof on the Defendant, unsustainable.

37. The question of law that wrenches to the fore is, whether in the absence of the settlement, the Courts below, on the basis of the above referred material, were justified in drawing an inference that the suit land ceased to be a want land. It is trite, if the question of law is settled by binding precedents, it no longer remains a substantial question of law.

38. This very question arose for consideration before the Division Bench of this Court in the case of **Ramijabi Maktumsaheb Jamadar Vs Ghudusaheb Farid Avati.**[3]

39. The Division Bench considered the question, if the property which was originally watan property is continued with the holder thereof, but without the holder having to render services and with the full levy of assessment from him, what is the effect of such continuance on the nature of the property, i.e. whether the property still continues to be watan property or whether it is converted into a ryotwari holding in which the holder is invested with the rights of an ordinary occupant. Disapproving the view of the learned Singh Judge that the property may continue to be watan property, notwithstanding the fact that full assessment has been levied and services have been dispensed with, the Division Bench observed that, when the Court considers the fact that watan property is property held, acquired or assigned for providing remuneration for the performance of the duty appertaining to an hereditary office, it is difficult indeed to understand how the property can continue to retain the nature of watan property even after the cessation of the performance of the duty. The Division Bench approved an earlier decision in the case of **Vishnu Shankar Kulkarni V Shankar Vasueo (1933) 35 Bom L.R. 114**, wherein it was held that, "where not only the services have been dispensed with, but also the remuneration

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3 ILR 1952 Bom 1019.

for those services has been withdrawn, any question of the property still remaining watan property" cannot arise. The effect of the Rules was that the lands which were the original watan lands may be converted into ordinary ryotwari lands by the levy of full assessment.

40. In the case of **Ramijabi Maktumsaheb Jamadar (Supra)**, the Division Bench also considered the aspect of inability of the Plaintiff to place on record an order to the effect that the watan land was converted into ryotwari land.

41. The Division Bench observed as under:

> "It is true that the plaintiff has not been able to produce any order to that effect in black and white from the Collector. But the admitted facts of the case justify the interference that such an order must have been passed. Those facts are: (1) that for a long time the original holder continued in possession of this property without rendering the service for which the property was originally granted to him, and (2) that the said holder became subject to the levy of full assessment after the commutation of the service. It is impossible to conceive of a state of affairs in which the revenue authorities without an order from the Collector would have ventured to discontinue the taking of service from the original holder of the property and would have ventured to start levying full assessment from the holder."
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> (emphasis supplied)

42. The aforesaid decision appears to govern the facts of the case at hand with equal force. Apart from the aforesaid conditions adverted to by the Division Bench, in the instant case there are two more significant

factors which bear upon the determination of the character of the suit land.

43. First, in the entry in the Inam Land Register for the year 1936-1937 against the suit land, an endorsement was made to the effect that, "deleted from Inam Land" in the remarks column. No credible explanation could be offered in regard to the said entry made in the Inam Land Register. The Court cannot lose sight of the fact that the said Register was required to be mandatorily maintained under the provisions of Section 65 of the Hereditary Offices Act, 1874. The Defendant did not lead cogent evidence to dislodge the presumption of the authenticity and genuineness of the said entry in the Register, which was required to be maintained under the statute and appeared to have been so maintained in official course of business.

44. Second, vide communication dated 9th May 1972, the Additional District Collector sought to revise the order passed by the SDO dated 6th May 1964, holding that the suit land had ceased to be an Inam Land prior to abolition of the Paragana Watan Lands. This implied that the SDO on 6th May 1964 had ruled that the suit land ceased to be the watan land. Cumulatively, the material on record indicates that in addition to the long standing and uninterrupted occupation of the suit land despite cessation of rendering of the service before 1889, and

payment of full assessment, there were documents which recorded that the suit land was deleted from the Register of Inam Lands.

45. In the case of **Bachharam Datta Patil and Anr Vs Vishwanath Pundlik Patil and Ors**[4] a Four Judge Bench of the Supreme Court, approved the decision in the case of **Ramijabi Maktumsaheb Jamadar (Supra)**. In the case of **Bachharam Datta Patil and Anr (Supra)** also, the Supreme Court was confronted with the situation wherein there was no evidence to indicate on what terms the services had been dispensed with and the full assessment levied upon the watan lands. In that factual context, the Supreme Court exposited the position as under:

> "7. … … … Thus the conditions to be agreed upon between the holder of land which was once part of a Watan and the Government at the time of the commutation may be of so many varieties that in some cases the Watan character of the land may be maintained, whereas in others the conditions agreed between the parties may themselves contemplate the cessation of that character. In the present case, apart from the entries in the Record of Rights, we have no other evidence to indicate as to on what terms the service bad been completely dispensed with in perpetuity and the full assessment levied upon those lands. , It is not therefore clear upon the findings of the courts below that there were any such conditions attaching to the holding of the lands in question which could be consistent with the continuance of the original Watan tenure. It is possible to conceive of a case where the conditions agreed upon provide for the continuance of

4 (1956) 2 SCC 191.

the Watan tenure in spite of the fact that the holders have been excused the performance of the customary service. On the other hand, it may be that there were no conditions agreed between the parties continuing the Watan character of the land after dispensing with the service."

(emphasis supplied)

46. Giving its imprimatur to the decision of the Division Bench in the case of **Ramijabi Maktumsaheb Jamadar (Supra),** the Supreme Court enunciated as under:

"9. A similar question arose for decision in the Bombay High Court in the case of Ramijyabi Muktum Saheb v. Gudusaheb(1) after the present case had been decided by that Court. In that case property which was originally Watan was continued with the holder thereof but without the obligation to render any service and with the full levy of assessment in respect of the land. The question arose whether such land continued to be Watan land with its special incidents as regards alienation, etc., or whether it was ordinary occupancy holding. A single Judge of that Court who heard the appeal in the first instance came to the conclusion that the land continued to be Watan land. On Letters Patent Appeal, the Division Bench after a very elaborate examination of the relevant-rules and precedents came to the contrary conclusion and held that the land had ceased to have the character of Watan and was subject to the ordinary law of land tenures in that State. We are in agreement with the conclusion reached by the Letters Patent Bench in that case, the facts of which were similar to those of the present case. Hence it must be held that there is neither authority nor principle in favour of the contention raised on behalf of the appellants."

(emphasis supplied)

47. At this stage reference to the decision of the Supreme Court in the case of **Laxman Mahadev Deshpande and Ors (Supra),** on which reliance was placed by Mr. Anturkar, becomes apposite. A Constitution Bench of the Supreme Court, after adverting to the provisions contained in the Hereditary Offices Act, 1874, enunciated that it is clear that the watan property, if any, the hereditary offices, and the rights and privileges attached thereto, together constitute a watan and a hereditary office does not lose its character merely because the service originally appertaining to the office has ceased to be demanded. Commutation of service does not, therefore, in the absence of an express agreement to that effect alter the tenure of the land held as watan. By agreement, the State, for consideration, may agree to relieve the holder of the office and his successors of the duty to perform the service for performance of which the grant was made, but the office and the grant continue, subject to the terms of the settlement under Section 15 of the Bombay Hereditary offices Act, 1874.

48. Referring to a Division Bench judgment of this Court in the case of **Appaji Bapuji Vs Keshav Shamrav and Ors**[5] the Supreme Court further enunciated the nature of the tenure of land originally held as watan land after commutation of service as under:

> "5. In Appaji Bapuji v. Keshav Shamrav (1), the nature of the tenure of land held originally as (1) (1890) I.L,R. 15 Bow. 13.

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5 ILR 15 Bom 13.

watan land, after commutation of service, fell to be determined before the Bombay High Court, Sargent C. J., observed at 23 :

> "What is termed a Gordon Settlement was an arrangement-- entered into in 1864 by a Committee, of which Mr. Gordon, as Collector, was chairman, acting on behalf of Government with the vatandars in the Southern Maratha Country, by which the Government relieved certain vatandars in perpetuity from liability to perform the services attached to their ices in consideration of a '*judi*' or quit-rent charged upon the vatan lands…. the reports of Mr. Gordon's Committee on the Satara and Poona Districts and their correspondence with Government can, we think, leave no doubt that the settlements made by that committee, unless it was otherwise specially provided by any particular settlement, were not intended by either party to these settlements, to convert the vatan lands into the private property of the vatandars with the necessary incident of alienability, but to leave them attached to the hereditary ices, which although freed from the performance of service remained intact, as shown by the definition of hereditary ice in the declaratory Act 3 of 1874."

But the Commutation settlement does not confer an indefeasible title to the grantee, for the right affirmed by the settlement under Section 15 (3) of the Watan Act is liable to be determined by lapse, confiscation or resumption (Section 22 of the Watan Act). The State having created the watan, is entitled to put an end to the watan i. e. to cancel the watan and to resume the grant : Bacharam Datta Patil Vs Vishwanath Pundalik Patil. Therefore if there be mere commutation of service, the watan office ordinarily survives without liability to perform service, and on that account the

> character of watan property still remains attached to the grant. But the State Government may abolish the office and release the property from its character as watan property."

49. A correct reading of the aforesaid enunciation of law, in the respectful understanding of this Court, does not advance the cause of the submission sought to be canvassed by Mr Anturkar. If it was the case of mere commutation, without anything more, different considerations might have come into play as the very definition of, " hereditary office" itself provides that such expression includes such office even where the services originally appertaining to it have ceased to be demanded. Thus, the aforesaid decision in the case of **Laxman Mahadev Deshpande and Ors (Supra)** emphasises that, if there is mere commutation of service only, the watan office ordinarily survives without liability to perform service, and on that account the character of watan property still remains attached to the grant.

50. However, if there are additional factors and concomitant circumstances, like payment of *judi* and full assessment, or the absence of any action on the part of the Authorities to resume the land, though the erstwhile watandar/occupant continued to be in the occupation of the original watan land for decades together, the principle enunciated in the case of **Ramijabi Maktumsaheb Jamadar (Supra)** and approved by the Supreme Court in the case of **Bachharam Datta Patil and Anr**

(Supra) would govern the fact-situation. As there are concurrent findings of fact and the law applicable to the proved fact-situation is settled by the decisions of this Court and the Supreme Court, the above proposed substantial questions of law do not arise for consideration.

51. Question Nos. 2 and 3.

Q. 2 Whether the present suit is maintainable in view of the provisions of the Maharashtra Land Revenue Code, the Code of Civil Procedure, and the Maharashtra Revenue (Jurisdiction) Act, for challenging the mutation entry effected in respect of the suit property?

Q. 3 Whether without first challenging the orders and actions taken under the provisions of the Bombay Paragana and Kulkarni Watan Abolition Act, it is open to the Plaintiff to merely question the mutation entry and seek recovery of possession of the suit property?

52. Mr. Anturkar, strenuously submitted that the principal relief in the suit is the declaration that the entry in the Record of Rights in respect of the suit land as "Akari Pad" is illegal, a suit for such declaration is not tenable before the Civil Court. As a second limb of this submission, it was urged that the action of the Defendant in pursuance of the provisions contained in the Hereditary Offices Act, 1874, and the Watan Abolition Act, 1950, could not have been challenged before the Civil Court, in view of the specific bar contained in Section 4 (a) and (d) of the Bombay Revenue Jurisdiction Act, 1876.

53. Ms. Tulpule, the learned Counsel for the Respondents joined the issue by canvassing a submission that the issue of jurisdiction though not raised by the Defendants with reference to the provisions contained in Act of 1876, yet, the learned District Judge has considered the same and recorded a justifiable finding that the Civil Court has jurisdiction to entertain the Suit and grant the relief as prayed for, by the Plaintiffs. To this end Ms. Tulpule placed reliance on the judgment of the Supreme Court in the case of **Sayed Mohomed Baquir El-Edroos Vs State of Gujarat,**[6] and this Court in the cases of **Sheth Abdullamiyan Abdulraheman Vs The Government of The Province of Bombay (The Secretary of State For India)**[7] and **Gopinath S/o Ganpatrao Pensalwar Vs State of Maharashtra and Anr.**[8] Since the question sought to be raised is settled by the binding precedents, no question of law arises for consideration, urged Ms. Tulpule.

54. The legal position is well-settled that if the Authorities under the statute have passed the orders beyond the remit of their jurisdiction, or the order amounts to a nullity or the order has been passed in violation of the provisions of the governing statute or was in breach of the fundamental principles of judicial process, the Civil Court's jurisdiction is not ousted.

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6 (1981) 4 SCC 383.

7 1942 ILR Bombay Series 717.

8 2007(1) Mh.L.J. 819.

55. It is trite a plaint is required to be read as a whole, including its prayer clauses. The prayers in the plaint cannot be dissected and then read in isolation. The entire context of the dispute and the import of the the prayers in the plaint are required to be construed in a holistic manner.

56. In the case at hand from the perusal of the prayer clause (a) it becomes abundantly clear that the Plaintiffs were essentially seeking the declarations that they continued to be the full and absolute owners of the suit land and by the action of resumption of possession of suit land and the mutation entries in the Record of Rights that the suit land was, "Akari Pad", their title was not lost. In addition to the declarations, the Plaintiffs have also sought a relief of restoration of possession of suit land.

57. In the considered view of this Court, the prayer in the first part of clause (a) of the Plaint cannot be read disjointed from the later part and torn out of context. A declaration with regard to the illegality of the entries in the Record of Rights is, if the plaint is read in a correct perspective, essentially a relief consequential to the declaration that the rights of the Plaintiffs in the suit land are not extinguished on account of the resumption of possession and that the Plaintiffs are the full and absolute owners of the suit land.

58. If so construed the reliefs of declaration and possession of the suit land squarely fall within the plenary and omnipresent jurisdiction of Civil Court. In the case of **Gopinath S/o Ganpatrao Pensalwar (Supra)**, a Full Bench of this Court considered the scope of bar under Section 11 of the Act of 1876. Following an earlier decision in the case of **Sheth Abdullamiyan Abdulraheman (Supra)**, the Full Bench enunciated the position in law as under:

> "13. Section 11of the Act of 1876 can not, in our view, be said to create a bar in entertaining the suit relating to an action of the Revenue Officer, where he purports to do an act which is without jurisdiction. It goes without saying that where an authority acts without jurisdiction or purports to pass an order, that is without jurisdiction, such order is void, non est and nullity. We do not think it is necessary for us to deal with this aspect at length, as we are benefited by the Full Bench decision of this Court in the case of (Abdullamiyan Abdulrehman v. The Government of Bombay) Vol. XLIV (1942) Bom.L.R. 577. The Full Bench of this Court had an occasion to consider Section 11of the Act of 1876. The Full Bench considered few decisions of this Court in the case of (Surannanna v. Secretary of State for India) 2 Bom.L.R. 261; (Malkajepa Vs Secretaruy of State for India) 14 Bom.L.R. 332; (Rasulkhan Hamadkhan Vs Secretary of State for India) 17 Bom.L.R. 513; (Dhanji v. The Secretary of State) 23 Bom.L.R. 279; (Patdaya v. Secretary of State) 25 Bom.L.R. 1160; (Sulleman v. Secretary of State) 30 Bom.L.R. 431 and (Manibhai v. Nadiad City Municipality) 28 Bom.L.R. 1465, and concluded the legal position thus:
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> > "Those cases have established the principle that where an authority which purports to pass an order is acting

> without jurisdiction, the purported order is a mere nullity, as Sir Lawrence Jenkins puts it, it is mere waste paper; and it is not necessary for anybody who objects to that order, to apply to set it aside. He can rely on its invalidity when it is set up against him, although he has not taken steps to set it aside. The Advocate General does not dispute the proposition established by those cases, but he says that the principle does not apply to Section 11 of the Bombay Revenue Jurisdiction Act, which operates when an appeal is possible, and not merely when it is obligatory. I find it difficult to see why the principle should not apply. If the true principle be, as those cases decided, that an order, or what purports to be an order, passed without jurisdiction, is a nullity, it cannot give rise to any right whatever, not even to a right of appeal."
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> 14. It was held by the Full Bench that on a strict use of language an order which is invalid, is not an order. It was further held that where the revenue officer purports to do an act or pass an order which is invalid, his action does not operate to raise a bar under Section 11 of the Act of 1876.
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> 15. We are in full agreement with the view of the Full Bench in the case of Abdullamiyan Abdulrehman (supra)".

59. The aforesaid position is well neigh settled. Consistent with the findings that the suit land had ceased to be a watan land before the enforcement of Watan Abolition Act 1950, the Defendants could not have resorted to the provisions of the Watan Abolition Act, 1950 to

resume the possession of the suit land. Thus, the view of the leaned District Judge that the Civil Court had jurisdiction to entertain and decide the Suit and grant the relief of declaration of title over the suit land, appears justifiable. For these reasons the proposed substantial questions of law do not arise for consideration.

60. Lastly, Mr. Anturkar would urge, in the facts of the case the question as to whether the suit was barred by law of limitation, assumes the character of substantial question of law.

61. The learned District Judge has carefully analyzed the issue of bar of limitation. As noted above, the Defendants resumed the possession of the suit land on 20th March 1962. The instant suit came to be instituted on 11th March 1974. The Plaintiffs asserted title over the suit land. For the reasons recorded in the forgoing paragraphs, this Court finds that there was no error on the part of the learned District Judge in returning a finding that, the Plaintiffs are the absolute owners of the suit land. A suit instituted within twelve years for recovery of possession of land of which the predecessor-in-title of the Plaintiffs was illegally dispossessed would squarely be within the period of limitation. Otherwise also, the suit for recovery of possession of the suit land within twelve years from the date of dispossession would be within the period of limitation, even if the suit is considered to be based on previous possession and not title. Thus, in the facts of the case, bar of limitation plainly does not operate.

62. The conspectus of the aforesaid consideration is that none of the proposed questions commends itself as a substantial question of law. The action of the Defendant in resuming the possession of the suit land was completely illegal. Thus, the Second Appeal deserves to be dismissed.

INTERIM APPLICATION (STAMP) NO. 25639 OF 2025:

63. The Applicants claim that Pandurang Gavandi, the predecessor-in-title of the Applicants was put in possession of the suit land, as lessee under a registered Lease Deed dated 25th October 1948. Late Pandurang Gavandi continued to be in exclusive use and possession of the suit land. Eventually, on account of the failure on the part of the Balaji, the predecessor-in-title of the Plaintiffs, to pay the occupancy price, the possession of the suit land was resumed by the State Government on 20th March 1962 and in the Record of Rights of the suit land an entry of "Akari Pad", was made.

64. The Applicants assert, while the challenge to the said action of resumption of possession and the entries in the Record of Rights of the suit land awaited adjudication, the Tahsildar by an order dated 23rd April 2001, re-granted the suit land to the Applicants. The Plaintiffs unsuccessfully assailed the said order before the Revenue Authorities and ultimately in Writ Petition No. 1204 of 2010 by a judgment and order dated 3rd January 2024, the order of re-grant of suit land passed

by the Tahsildar was set aside with a clarification that the entitlement, if any, of the Applicants and their predecessor-in-title to seek re-grant of land would depend on the final outcome of the Civil Appeal then pending before the District Court. Liberty was reserved to the Applicants to initiate appropriate proceedings depending on the outcome of the said Civil Appeal. Thus, the Applicants are vitally interested in the subject matter of the Suit.

65. By the impugned judgment, the learned District Judge has also rejected the intervention application filed by the Applicants before the District Court. The Applicants are seriously aggrieved by the impugned judgment and decree as it affects the rights of the Applicants. Thus, the Applicants seek leave to prefer an Appeal against the impugned judgment and decree.

66. As noted above, the Applicants have also filed an Application for impleadment as party-Respondents in Second Appeal No. 397 of 2025.

67. The substratum of the claim of the Applicants seems to be the order of re-grant passed by the Tahsildar on 23rd April 2001. In Writ Petition No. 1204 of 2010, this Court has quashed and set aside the said order of re-grant, as well as the orders passed by the Appellate and Revisional Authorities affirming the said order passed by the Tahsildar opining, *inter alia,* that issue of entitlement or otherwise of the Applicants to the re-grant of the land squarely depends upon the

outcome of the Civil Appeal preferred against the decree of possession passed by the Trial Court in SC 111 of 1974. Thus, it would be prudent to await the outcome of the said Appeal, granting liberty to the parties to work out their remedies after the said decision.

68. Incontrovertibly, the possession of the suit land was resumed by the Defendant on 20th March 1962. The predecessor-in-title of the Applicants was in possession of the suit land as a lessee thereof. No effort was made to join the issue on the nature and character of the possession of the predecessor-in-title of the Applicants over the suit land. Thus, on first principles, the Applicants now cannot assert independent rights emanating from the Lease Deed. The Applicants case rests on the purported re-grant of the suit land to the Applicants; which has been set aside on 3rd January 2024, by this Court. Whether the Applicants still hold right and interest in the suit land?

69. The learned District Judge has recorded that the Applicants have transferred their right and interest in the suit land in favour of the Dattatray Dhone under a registered Lease Deed dated 29th December 2007 and registered Confirmation Deed dated 7th November 2008, after the order of re-grant. On the strength thereof the transferees Dattatray Dhone sought impleadment in the then pending Appeal before the District Court. The Application for impleadment was allowed by the District Court. However, in Writ Petition No. 12905 of 2019, by an order

dated 24th October 2018, the said order of impleadment of the Dattatray Dhone was quashed and set aside. A Special Leave to Appeal (C) No. 2419 of 2020 was dismissed by the Supreme Court on 21st May 2020. The learned District Judge thus held that the Applicants have no locus to seek impleadment in the Appeal.

70. In the backdrop of the aforesaid facts, it is imperative to note that the Applicants do not seem to have any subsisting right or interest in the suit land. They have no semblance of interest in the suit land in presentee.

71. Secondly, the claim of the Applicants stems from order of re-grant dated 23rd April 2001. The said grant was subject to the principle of *lis pendense*. The Applicants do not claim that there is any privity between the Applicants and the Plaintiffs. Conversely, the presence of the Applicants did not appear to be necessary for the effective and complete adjudication of the lis. The mere fact that the Applicants seek to support the action of the Defendant does not make them either a necessary or proper party to the proceeding.

72. The Applicants may agitate the issue of re-grant of the suit land in view of the liberty granted by this Court in Writ Petition No. 1204 of 2010. However, that does not necessarily imply that the Applicants are aggrieved by the impugned judgment and decree.

73. For the aforesaid reasons, I am not inclined to grant leave to the Applicants to prefer the Second Appeal and allow the Application for imleadment of the Applicants as the party-Respondents to the Second Appeal No. 397 of 2025.

74. Consequently the Application to seek leave to Appeal as well as the application seeking impleadment in Second Appeal No. 397 of 2025 deserve to be rejected.

75. Hence, the following order:

: O R D E R :

(i) The Second Appeal No. 397 of 2025 stands dismissed with costs.

(ii) All pending Applications including Interim Application No. 10619 of 2025 for impleadment of the Applicants therein as party-Respondents, in Second Appeal No. 397 of 2025, stand dismissed.

(iv) Interim Application (Stamp) No. 25639 of 2025 in Second Appeal (Stamp) No. 25320 of 2025 seeking leave to prefer Appeal also stands dismissed.

(v) Consequently, the Second Appeal (Stamp) No. 25320 of 2025 and all pending Applications in Second Appeal (Stamp) No. 25320 of 2025, also stand dismissed.

[N. J. JAMADAR, J.]

At this stage, the learned counsel for the Appellant and the

Applicants in Interim Application (Stamp) No. 25639 of 2025 seek stay to execution and operation to the impugned decree. The Court is informed that in the execution proceedings filed by the Plaintiffs, the Applicants in Interim Application (Stamp) No. 25639 of 2025, had filed obstruction proceedings.

Having regard to the fact that possession of the subject land was taken by the State Government in the year 1962, and the Applicant in IA No. 10619 of 2025 have transferred the subject land in favaour of Dattatray Dhone, the prayer for grant of stay to the execution and operation of the impugned decree cannot be countenanced.

Thus, oral applications to stay the execution and operation of the impugned decree stand rejected.

[N. J. JAMADAR, J.]