

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

APPEAL FROM ORDER NO.46 OF 2014 WITH  
CIVIL APPLICATION NO.3675 OF 2014

1. Raosaheb s/o Jijaba Anbhule  
Age 69 years, Occ. Agri. & Business

2. Bhushan s/o Raosaheb Anbhule,  
Age 37 years, Occ. Agri. & Business,

Applicant No.1 & 2 R/o Premdan Chowk,  
Nagar- Manmad Road, Savedi,  
Ajhmednagar, District Ahmednagar.

3. Sadashiv s/o Vithal Shelar,  
Age 50 years, Occ. Agri. & Business,

4. Sou. Sindhuai w/o Madhukar Shelar,  
Age 45 years, Occ. Agri. & Household

Applicant Nos.3 & 4 R/o Shelarmala,  
Nagar Deole, Tq. Nagar,  
District Ahmednagar.

5. Rajesh s/o Vasantryao Patil,  
Age 45 years, Occ. Agri. & Business,  
R/o Shahunagar, District Jalgaon. ...

APPELLANTS

VERSUS

1. Dr. Prakash s/o Kanhayalal Kankaria  
Age 55 years, Occu. Agri. & Business,  
R/o Saisurya Netralaya,  
Opp. Senapati Bapat Statue,  
Manik Chowk, Ahmednagar,  
District Ahmednagar.

2. Prakash s/o Kundlik Kardile,  
Age 47 years, Occ. Agri. & Business,

3. Shivaji s/o Bhanudas Kardile,  
Age 57 years, Occ. Agri. & Business

Respondents No.2 & 3 R/o Burhannagar,  
Ahmednagar, District Ahmednagar.

4. Shahamadar Masjid Dargah & Kabrasthan  
Wakf R. No.W.B. 828 (102), Bhingar  
(Ahmednagar), through its Wakfs  
Mutawali & Trustees.
5. Badshah Chabubhai Pathan,  
Age 54 years, Occu. Agri. & Service,  
R/o Burhannagar, Tq. Nagar,  
District Ahmednagar.
6. Shaikh Rahimshaha Miya Chandmiya,  
Age 84 years, Occ. Retired,  
R/o Govindpura, Ahmednagar,  
Tq. & District Ahmednagar. ... RESPONDENTS

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Shri N.V. Gaware, Advocate for appellants  
Shri P.V. Mandlik, Senior Counsel with  
Mrs. S.T. Kazi, Advocate for respondent No.1  
Shri Z.Y. Pathan, Advocate for respondents No.4 and 5  
Rest of respondents - served  
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**W I T H**

APPEAL FROM ORDER NO.47 OF 2014 WITH  
CIVIL APPLICATION NO.3749 OF 2014

Prakash Kanheyalal Kankariya  
Age 55 years, Occ. Medical Practitioner &  
Agriculture, R/o Saisurya Netralaya,  
Manik Chowk, Ahmednagar. ... APPELLANT  
(Original Plaintiff)

**VERSUS**

1. Ravsaheb Jijaba Anbhule  
Age 68 years, Occ. Agri. & Business,
2. Bhushan Ravsaheb Anbhule,  
Age 36 years, Occ. Agri. & Business

Nos.1 and 2 R/o Manmad Road,  
Ahmednagar.

3. Sadashiv Vitthal Shelar,  
Age 49 years, Occ. Agri. & Business
4. Mrs. Sindutai Madhukar Shelar,  
Age 44 years, Occ. Agri. & Household

Nos.3 & 4 R/o Shelar Mala,  
Ahmednagar.

5. Dr. Rajesh Vasant Rao Patil,  
Age 44 years, Occ. Agri. & Business,  
R/o Shahunagar.
6. Prakash Kundlik Kardile,  
Age 46 years, Occ. Agri. & Business,
7. Shivaji Bhanudas Kardile,  
Age 56 years, Occ. Agri. & Business,

Nos.6 & 7 R/o Bhurannagar,  
Ahmednagar.

8. Sha Madar Masjid Dargah Wakf,  
MSBW No.828(102) (Nagar)  
Bhurannagar, Ahmednagar.
9. Badsha Chabubhai Pathan  
Age 53 years, Occ. Agri. & Business,  
R/o Bhurannagar, Ahmednagar.
10. Shaikh Rahimshamiya Chandmiya,  
Age 83 years, Occ. Retired,  
R/o Govindpura, Ahmednagar.

... RESPONDENTS  
(Original Defendants)

.....  
Shri P.V. Mandlik, Senior Counsel with  
Mrs. S.T. Kazi, Advocate for appellant  
Shri N.V. Gaware, Advocate for respondents No.1 to 5  
Shri Z.Y. Pathan, Advocate for respondents No.8 and 9  
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CORAM:     A.I.S. CHEEMA, J.

DATED:     4th March, 2015.

ORAL ORDER :

1.           Heard Mr. P.V. Mandlik, learned Senior Counsel with Mrs. S.T. Kazi, learned counsel for appellant in Appeal from Order No.47/2014 and respondent No.1 in Appeal from Order No.46/2014, Mr. N.V. Gaware, learned counsel for respondent No.1 to 5 in Appeal from Order No.47/2014 and appellants in Appeal from Order No.46/2014 and Mr. Z.Y. Pathan, learned counsel for respondents No.8 and 9 in Appeal from Order No.47/2014 and respondents No.4 and 5 in Appeal from Order No.46/2014.

2.           The Advocates appearing for respective parties submit that the original plaintiff – appellant in Appeal from Order No.47/2014 may be given liberty and time to deposit Rs.53,00,000/- (Rupees Fifty Three Lakhs) which was directed by the trial Court vide impugned order dated 5.2.2014. Learned Senior Counsel for appellant in Appeal from Order No.47/2014 submits that, the appellant (original plaintiff) will deposit Rs.53 Lakhs in the trial Court in cash or by demand draft on or before 31st March 2015. If the amount is tendered, trial Court should

accept the same. Counsel for both sides agree to maintain the impugned order and request for further directions to both parties to maintain status quo relating to suit property and to expedite suit. I pass following order :

**ORDER**

(i) The appellant in Appeal from Order No.47/2014 – original plaintiff is given time and directed to deposit Rs.53,00,000/- (Rupees fifty three lakhs) in trial Court by cash or Bank Draft on or before 31st March 2015. With this modification, the impugned order below Exhibit 5 in Regular Civil Suit No.58/2012, passed by Trial Court is maintained except for the default clause as was directed by the trial Court. In addition to the directions of Trial Court that defendants No.1 to 5 shall not sell, alienate, dispose of and/or encumber the suit property and create any third party rights thereupon, till final decision of the suit, both parties to the suit are directed to maintain status quo relating to the properties in dispute till decision of suit. The suit shall stand expedited. The trial Court will make efforts to dispose the suit within six months from the date of receipt of the writ from this Court.

(ii) It is further directed that if the amount is not

deposited on or before 31st March 2015, the temporary injunction as granted below exhibit 5 in Regular Civil Suit No.58/2012, with above modification, shall stand automatically vacated.

3. Both the Appeals from Order and Civil Applications stand disposed of accordingly.

(A.I.S. CHEEMA, J.)

fmp/ao47.14