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

**SECOND APPEAL NO. 53 OF 2010
WITH
CIVIL APPLICATION NO.6209 OF 2008
IN
SECOND APPEAL NO.53 OF 2010**

Sayyad Mardani Gaibhan Shah Vali
Public Trust, through its trustees

Gafur Fatteshah Sayyad,
deceased, per L.Rs.

Sayyad Ikramoddin s/o
Gafur Shah, Age: 68 years,
Occ: Retired, R/o. Parner,
Taluka Parner, Dist. Ahmednagar
& anr

..APPELLANTS

VERSUS

Gulab Chandshah Sayyad,
Deceased per L.Rs.

Ulkambee Gafurbhai Shaikh
Age: 50 years, Occ: Household,
R/o. Parner, Taluka Parner,
Dist. Ahmednagar
(died through L.Rs. Respondent
Nos. 1B to 1E as per order
in C.A. No.9453/2010) & ors

..RESPONDENTS

Mr A.P. Bhandari, Advocate for appellants;
Mr V.D. Hon, Senior Advocate, Advocate for
respondent No.2

CORAM : N.W. SAMBRE, J.

DATE : 5th JUNE, 2017

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ORAL ORDER :

I am informed that, the appeal is already dismissed against respondent Nos. 1B, 1C, 1D and 1E. It also stood abated and as such dismissed against respondent No.1A.

2. Respondent No.2 has purchased the suit property who has stepped in the shoes of original respondent No.1.

3. It is admitted position on record that neither document of trust and its aims and objects are brought on record.

4. There are concurrent findings recorded against present appellants by both the Courts below in suit for permanent and mandatory injunction.

5. The appellant-plaintiff in the aforesaid back ground through Advocate Mr. Bhandari is trying

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to rely upon the provisions of Sections 19,20, 79 and 80 of the Bombay Public Trusts Act so as to carve out question of law as to whether the Courts below have committed error in re-appreciating legally settled position as regards status of the suit property being trust property.

6. With the assistance, I have perused both the judgments. Apart from the fact that the appeal stood abated and also dismissed against the respondents, particularly contesting respondents, it is to be noted that the Courts below have relied upon the judgment of this Court in the matter of **Keki Pestanji vs Rodabai**, reported in 74, **Bom.L.R. 198** and held that jurisdiction of the civil Court is not barred in the matter of inquiry as to whether the suit property is trust property or not.

7. In my opinion, in absence of aims and objects of the trust and in view of the judgment of this Court in the matter of **Keki Pestanji**, cited supra, no error of law could be noticed. The

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appeal lacks substantial question of law. As such,
appeal fails, stands dismissed.

8. In the light of dismissal of second
appeal, civil application stands dismissed.

(N.W. SAMBRE, J.)

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