

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.305 OF 2016**

a/w

INTERIM APPLICATION NO.1539 OF 2019

Vijaysingrao Madhavrao Patwardhan] Appellant

Vs.

Kishor Prabhakar Patwardhan and others] Respondents

A/W

CIVIL APPLICATION NO.1460 OF 2019

IN

FIRST APPEAL NO.305 OF 2016

Kishor Prabhakar Patwardhan and others] Applicants

IN THE MATTER BETWEEN:

Vijaysingrao Madhavrao Patwardhan] Appellant

Vs.

Kishor Prabhakar Patwardhan and others] Respondents

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Mr. Umesh R. Mankapure, for Appellant.

Mr. Sarthak Diwan, for Respondents No.1, 2 and 5.

Mr. Kedar J. Patil, for Respondent No.3.

Mr. Vikram Singh, for Respondent No.4.

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**CORAM : K.K. TATED &
PRITHVIRAJ K. CHAVAN, JJ.**

DATE : 3rd September, 2021

P.C.

1. Heard learned Counsel for the parties.
2. Both the learned Counsel submit that matter is settled between the parties. They tendered the consent terms dated 1st September, 2021 duly affirmed before the Registrar, District and Sessions Judge, Sangli. Same is taken on record and marked 'X' for identification. Same is accepted.
3. Both the learned Counsel submits that respective parties are before this Court. They entered into the witness box. They accept the terms and conditions of the consent terms and execution thereof. Consent terms contains pages No.1 to 11. Undertakings are accepted. Consent terms read thus;

CONSENT TERMS

Herein the Appellant and Respondents no.1 to 5 humbly submit consent terms as follows,

1)The Appellant is the original Plaintiff and the Respondents are the original Defendants.

*2)The present dispute pertains to properties bearing Survey No. 6, 7, 181 and 182 (New Survey Nos. 133/134B/6/7A and 7B) (hereinafter referred as **the suit properties**) at Miraj, situated within the revenue limits of Sangli Miraj Kupwad Corporation. The suit properties are List 'A' properties under the Merger Agreement dated 19/02/1948 between the Union of India and the princely state of Sangli. The said List 'A' properties are recognised by the Union of India as the*

personal properties of the former Ruler of former Sangli state. The Appellant is recognised Successor Ruler of the Sangli state and, as such the sole and exclusive owner of the said properties to the exclusion of heirs and successors of the former ruler.

3)The Appellant had filed Special Civil Suit No.93/2014 seeking declaration that the registered sale deed of the suit properties dated 20.04.2013 executed in favour of the Respondents by one Shri. Jaju as a POA holder of the Appellant is invalid, ineffective for want of Authority and want of consideration and the Appellant had filed an application for the relief of perpetual injunction against Respondents for not creating third party rights in respect of suit properties and alternatively for decree directing Respondents to pay an amount of Rs. 4.5 Crores/Rs. 9 Crores with 10% interest from 20.04.2013.

The Respondents appeared in the suit and filed an application under Order 7 Rule 11 of the Civil Procedure Code, 1908 seeking rejection of the plaint, which was allowed vide order dated 26.02.2015 and the Plaint of Appellant came to be rejected.

4)Being aggrieved by the said order Appellant had filed the present First Appeal before this Hon'ble Court. By an order dated 28.06.2019 this Hon'ble Court had admitted the present appeal and same is pending for final hearing.

5)The parties to this appeal have now settled the matter amicably and have resolved all disputes amongst them in respect to the abovementioned suit properties. Therefore,

the Parties request this Hon'ble Court to dispose of the present First Appeal, in terms of the following consent terms.

CONSENT TERMS

***A.** The Respondents have agreed to give additional and proper consideration to the appellant towards full and final settlement of all claims of the appellant in respect of the suit properties, however in lieu of cash consideration, the Respondents has agreed to transfer plots of land to the Appellant and in view thereof. The Appellant hereby fully and without any reservation confirms and ratifies the sale of suit properties to Respondents under the Deed of Conveyance dated 20/04/2013 referred above which is registered in the office of Sub-registrar class-2, Miraj-1, Sangli at Sr. No. 3288/2013 in order to perfect the ownership/ title of Respondents over suit properties and overall transactions under the said deeds (hereinafter referred as the said Conveyance Deed dated 20/04/2013). The Appellant further confirms that the suit properties are in possession of Respondents from 18/06/2006 and the Respondents have become full and absolute owner from 20/04/2013. The Appellant also accepts and admits that the Deed of Conveyance dated 20/04/2013 is binding on him and his successors, heirs as the same has been duly accepted and ratified by him.*

***B.**In lieu of paying proper additional consideration and in view of the present consent terms, it is agreed that Respondents no. 1 and 2 will duly execute Conveyance Deed*

to transfer and convey to the Appellant ownership in developed Plots No. 213 to 217 together admeasuring 1250.55 sq.mtrs and also Plot Nos. 21 to 25 together admeasuring 935.30 sq. mtrs. out of suit properties now bearing New Survey No.133/134B/6/7A towards full and final settlement of the entire claim, contention, right, title and interest claimed by the Appellant in the suit properties in Spl. civil suit no.93/2014. The total cost of the said 10 NA plots, as per the government valuation index is Rs 66,89,000/-. The copy of sanctioned layout plan is annexed as Annexure 'A' & the said 10 NA plots are shown in yellow color.

By receiving the additional consideration the Appellant has agreed to abandon all his claims over the suit properties forever. No further monetary or other kind of consideration shall be claimed by the Appellant in future under whatever capacity, whatever name or for whatsoever reason in respect of Appellants entire claim, contention, right, title and interest in the suit properties.

The Respondents 3, 4 and 5 have now no concern with the said plots and they have given the consent for said execution of Sale Deed by Respondents 1 and 2.

C.The Appellant and Respondents have signed and executed following deeds and confirmations to be duly registered by them in favour of each other. They are:-

(a)Deed of Conveyance of said 10 NA plots towards full and final consideration AND

b) Deed of Confirmation and Ratification of Conveyance dated 20/04/2013.

All the parties agree and undertake that registration of these aforesaid deeds and confirmations are to be completed within a period of 7 working days from today.

The expenses of registration, stamp duty etc shall be borne by the Appellant and Respondents to the extent of 50 percent each. The Appellant agrees & declares that Govt. Taxes/Capital Gain Tax etc. for the transfer of the said 10 NA Plots towards full and final consideration shall be borne by Appellant.

D. These Consent Terms have been arrived at and entered into under the firm hypothesis and conviction that the Appellant is the sole and exclusive owner of the suit properties and has the exclusive right to dispose them off as per his will and discretion. Except Appellant no other person including his family members have any concern with suit properties and same can be dealt with exclusively by Appellant in his personal capacity as duly recognised Successor Ruler of the former State of Sangli. The Appellant further declares that he has arrived at these consent terms under all the powers as successor Ruler of the former State of Sangli and all the powers and privileges he has, under various statutes, or possesses as flowing from the Merger Agreement or accession of the territory of the former Sangli State in the Union of India as also under any documents, writings, deeds whatsoever by and between the Appellant or his predecessor's-in-title and even otherwise and further it is

hereby specifically stated that the Appellant has not retained or reserved any rights whatsoever regarding the above suit properties.

However, by any chance if anybody whosoever makes any claim against the said suit properties in any capacity and the said claim is upheld by any court or authority, or settled by the Respondents with the claimant in cash or kind, in consultation and with consent of Appellant, the Appellant shall and hereby undertakes to pay or reimburse the settled amount to the Respondents and agrees to indemnify the Respondents against any losses caused to them in any manner. Further the Appellant agrees and undertakes to settle such claims entirely at his own costs, charges and expenses and also agrees and undertakes that such claim, if accepted or settled shall be satisfied by the Appellant entirely out of his own assets.

E. The Appellant agrees and undertakes that with signing and filing of these Consent Terms, he will not raise any objection of whatsoever nature against Respondents to further develop, construct, deal with, dispose of said properties and further recognises pre-existing right of Respondents to develop the suit properties in pursuance of the Deed of Conveyance dated 20.04.2013 as the absolute owners of the said lands.

The Appellant also agrees and undertakes to not to initiate any litigation in future before any civil, criminal, revenue or other court or authority whatsoever regarding the said suit properties against the Respondents and against

the third party purchasers who have purchased plots/flats etc. from the Respondents within the suit properties.

E. In view of the present consent terms the Appellant has given up all his claims, contention, right, title and interest and demands whatsoever against the Respondents regarding the aforesaid suit properties forever. If any of the Party to this compromise fails to perform the reciprocal obligations as stated in the consent terms, then the other party will be entitled to enforce them by executing the consent decree which may be passed in terms of these consent terms, against the defaulting party.

G.The appellant accepts and agrees that the order dtd. 14/10/2016 passed by Revenue Minister holding that the suit lands are free hold i.e. Class I lands owned by Respondents being List A properties of Ruler of former State of Sangli i.e. Appellant and the Respondents have become owner of the said free hold suit lands and also the order rejecting the review application filed by the appellant against that order. The appellant agrees and undertakes to withdraw the Writ Petition WPST/19630/2019 filed by him against the said Order unconditionally within 7 working days from today.

H.The Respondents hereby agree and undertake to unconditionally withdraw Special Civil Suit No.146/2019 filed by them against Appellant which is pending in the Court of Civil Judge Senior Division, Sangli within 7 working days from today. In view of the present consent terms, the Parties hereby agree and undertake to withdraw

all proceedings civil, criminal and revenue in respect of suit properties or against the transaction in respect thereof pending in any Court or before any Authority filed by them singly or along with others against each other unconditionally. They also undertake not to raise any claim against each other as all claims and disputes have been settled finally. All the pending litigations filed by the parties in respect of the suit properties shall be treated as withdrawn on acceptance of these Consent Terms by this Hon'ble High Court and on due execution of Conveyance deed by Respondents. Both the parties will also not claim any costs, expenses in respect of any suit, writ, or proceeding commenced or filed by them.

I. The parties shall have necessary power and authority to file Execution or other applications along with certified copies of these Consent Terms before the concerned Court or Authority in order to enforce these Consent Terms and to seek necessary orders therein.

6) All the parties have entered into and executed these consent terms voluntarily, out of their own free will and without any force, fraud, fear, undue influence and after obtaining legal advice from their own advocates. As such, these consent terms are and shall be binding on all the parties as well as their heirs, successors and legal representatives.

7) All the assurances and undertakings given by the Appellants, Respondents are accepted by this Hon'ble Court. Any party, committing breach of the respective

assurances/undertakings, would be liable for an action of contempt of this Hon'ble Court.

8) The decree passed by the Court below may kindly be modified in terms of these consent terms with no orders as to costs.

9) In witness of the present consent terms, all the parties have signed these consent terms herein below”.

4. First appeal stands disposed of in term of the consent terms. Consent Terms be treated as part and parcel of the proceedings as well as decree.

5. In view of disposal of the first appeal by filing consent terms, nothing survives in Interim Application and Civil Application. Hence, Interim Application and Civil Application stand disposed of being infructuous.

6. No order as to costs.

[PRITHVIRAJ K. CHAVAN, J.]

[K. K. TATED, J.]