

Vidya Amin

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 7756 OF 2008**

Vilas Laxman Apte & Anr. ... **Petitioners**

**V/s.**

Bhagyawant Magasvargiya Sahakari  
Samudayak Sheti Santha Maryadit & Ors ... **Respondents**

**WITH  
CIVIL APPLICATION NO. 2866 OF 2017  
IN  
WRIT PETITION NO. 7756 OF 2008**

Bhagyawant Magasvargiya Sahakari  
Samudayak Sheti Santha Maryadit & Ors. ... **Applicants**

**in the matter between**

Vilas Laxman Apte & Anr. ... **Petitioners**

**V/s.**

Bhagyawant Magasvargiya Sahakari  
Samudayak Sheti Santha Maryadit & Ors. ... **Respondents**

Mr. R.S. Apte, Senior Advocate i/b. Ms. Anjali N. Helekar and Anu C. Kaladharan for the petitioners.

Mr. Y.S. Jahagirdar, Senior Advocate i/b. Mr. Vilas Tapkir for respondent nos. 1 to 3.

**CORAM : G.S.KULKARNI, J.  
DATE : 23 November, 2021**

**P.C.:**

1. Heard learned senior counsel for the parties.
2. This petition was disposed of by an order passed by this Court (R.M. Sawant, as His Lordship then was). Learned senior counsel for the parties have drawn my attention to an order dated 8 May, 2017 passed by the Supreme Court by which the orders

passed by this Court were set aside and the petition was restored to be heard afresh.

3. Having perused the record and the impugned order, in my opinion, in the facts and circumstances of the case, as agreed by the learned senior counsel for the parties, it would be appropriate that the controversy involved in this petition be adjudicated by the trial Court, as it involves adjudication of factual disputes, which can be effectively gone into by the trial Court.

4. In these circumstances, without expressing any opinion on the merits of the matter, the judgment and order dated 13 October, 2008 in Appeal No. 834 of 2006 passed by the learned Member, Maharashtra State Cooperative Appellate Court (Mumbai) Bench at Nagpur as also the judgment and order dated 12 October, 2006 passed in Dispute No. 714 of 1987 by the learned Judge, Cooperative Court No. 2, Pune are set aside. Dispute No. 714 of 1987 accordingly stands revived and remanded to the Cooperative Court at Pune for its adjudication.

5. All contentions of the parties are expressly kept open.

6. The petitioners are also at liberty to file an application for amendment of the dispute. If such an application is made, the respondents shall have an opportunity of filing their reply and to raise all permissible contentions. Learned trial Judge shall consider such application after hearing the parties and pass appropriate orders. All contentions of the parties in that regard are also kept open.

7. Petition is accordingly disposed of in the above terms. No costs.

8. Interim Application would also not survive and is accordingly disposed of.

**(G.S.KULKARNI, J.)**