

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

10 CIVIL APPLICATION NO.9715 OF 2023
IN WP/3195/2002
WITH
WP/2362/2001

Motichand Humumchand Bundelkhandi
Age; 87 years, Occ; NA
R/o; Sardar Bazar Chalisgaon,
Tq. Chalisgaon & Dist. Jalgaon.

...Applicant

VERSUS

1. The State of Maharashtra
2. The Maharashtra Revenue Tribunal
Through its Member.
3. The Sub Divisional Officer,
Chalisgaon Sub Division,
Chalisgon, Dist. Jalgaon.
4. The Tahsildar
Chalisgon, Tq. Chalisgon
Dist. Jalgaon.
5. The Commissioner
Mumbai.
6. Mundasing Jamalsingh,
Age; 76 Occ; Agri & Business
R/o; Laxmi Nagar, Behind S.T.Bus Stand
Chalisgaon, Tq. Chalisgaon,
Dist. Jalgaon.
7. Suresh s/o Kachru Bhosale,
Age; 72 years, Occ; Agri,
R/o; Mitra Type, Near Railway Line,
Chalisgaon, Tq. Chalisgaon,
Dist. Jalgaon.
8. Dhana Lakha Nikam,

Since deceased through his legal heirs,

8-A. Ramabai W/o Laxman Garud,
Age; 62 years, Aocc; Household,
R/o; Shindi, Tq. Chalisgaon,
Dist. Jalgaon.

9. Bhagwansing Gyansing,
Age; 73 years, Occ; Business,
R/o; Laxmi Nagar, Behind S.T. Bus Stand,
Chalisgaon, Tq. Chalisgaon,
Dist. Jalgaon.
10. Mansing Himmatsing,
Age; 69 years, Occ; Business,
R/o; Laxmi Nagar, Behind S.T. Bus Stand
Chalisgaon, Tq. Chalisgaon,
Dist. Jalgaon.
11. Smt. Jamnabai Ladharam Nakwal,
Since deceased through her legal heirs,
11-A) Pralhad Bhagirath Nakwal,
Age; 58 years, Occ; Agri,
R/o; Near Power House, Chalisgaon,
Tq. Chalisgaon, Dist. Jalgaon.
12. Shamrao Vithoba Marathe
Since deceased through his legal heirs,
12-A) Shantabai Shamo Marathe,
Age; 27, Occ; Nil,
R/o; Eychha Devi Road,
Near Bank of River Titur, Chalisgaon,
Tq. Chalisgaon, Dist. Jalgaon.
13. Mansing Sonu More,
Since deceased through his legal heirs,
13-A) Chandrasing Mansing More,
Age; 60 yrs, Occ; Agri,
R/o; Mehunbare, Dhule Road, Chalisgaon
Tq. Chalisgaon, Dist; Jalgaon.
- 13-B) Pandit Mansing More,
Age; 56 years, Occ; Agri,
R/o; Mehunbare-Dhule Road Chalisgaon,
Tq. Chalisgaon, Dist. Jalgaon.

14. Raghunandan Kuvardas Sharma,
Age; 65 years, Occ; Agri,
R/o; Jahangirwadi, Chalisgaon,
Tq. Chalisgaon, Dist. Jalgaon.
15. Kashinath Brindavan Bundalkhandi
Since deceased through his legal heirs,
15-A) Kamlabai Kashinath Bundelkhandi
Age; 79 years, Occ; nil,
R/o; Tilak Chawk, Gadhi, Chalisgaon,
Tq. Chalisgaon, Dist. Jalgaon.

15-B) Vinod Kashinath Bundelkhandi
Age; 52 years, occ; Agri,
R/o; Tilak Chawk, Gadhi, Chalisgaon,
Tq. Chalisgaon, Dist. Jalgaon.
16. Vishwanath Brindavan Bundlkhandi,
Since deceased through his legal heirs
16-A) Mohan Vishwanath Bundelkhandi,
Age; 65 yrs, Occ; Agri,
R/o; Tilak Chowk, Gadhi, Chalisgaon,
Tq. Chalisgaon, Dist. Jalgaon.

16-B) Girish Wishwanath Bundelkhandi,
Age; 62 years, Occ; Agri,
R/o; Tilak Chawk, Gadhi, Chalisgaon,
Tq. Chalisgaon, Dist. Jalgaon.

16-C) Sudhir Vishwanath Bundelkhandi
Age; 58 years, Occ; Agri,
R/o; Tilak Chawk, Gadhi, Chalisgaon,
Tq. Chalisgaon, Dist. Jalgaon.

16-D) Sushila Ramesh Dongare,
Age; 56 yrs, Occ; Household,
R/o; Mohan Vishwanth Bundelkhandi
R/o; Tilak Chawk, Gadhi, Chalisgaon,
Tq. Chalisgaon, Dist. Jalgaon.

16-E) Sau. Chhayabai Sarvagi,
Age; 54 years, Occ; Household,
R/o; Mohan Vishwanth Bundelkhandi
R/o; Tilak Chawk, Gadhi, Chalisgaon,
Tq. Chalisgaon, Dist. Jalgaon.

16-F) Ashabai Barsaiyan,
Age; 62 years, Occ; Household,
R/o; C/o Mohan Vishwanath Buldelkhandi,
R/o; Tilak Chawk, Gadhi, Chalisgaon,
Tq. Chalisgaon, Dist. Jalgaon.

16-G) Ramratibai Vishwanath Bundelkhandi,
Age; 68 years, Occ; Household,
R/o; Mohan Vishwanth Bundelkhandi
R/o; Tilak Chawk, Gadhi, Chalisgaon,
Tq. Chalisgaon, Dist. Jalgaon.

17. Madnkumar Brindawan Buldelkhandi,
Age; 75 years, Occ; Diary,
R/o; Tilak Chawk, Gadhi, Chalisgaon,
Tq. Chalisgaon, Dist. Jalgaon.

18. Vishwanath Brindavan Bundalkhandi
Since deceased through his legal heirs,
18-A) Mohan Vishwanath Bundelkhandi,
Age; 65 years, Occ; Agri,
R/o; Tilak Chawk, Gadhi, Chalisgaon,
Tq. Chalisgaon, Dist. Jalgaon.

18-B) Girish Vishwanath Bundelkhandi,
Age; 62 years, Occ; Agri,
R/o; Tilak Chawk, Gadhi, Chalisgaon,
Tq. Chalisgaon, Dist. Jalgaon.

18-C) Sudhir Vishwanath Bundelkhandi,
Age; 58 years, occ; Agri,
R/o; Tilak Chawk, Gadhi, Chalisgaon,
Tq. Chalisgaon, Dist. Jalgaon.

18-D) Sushila Ramesh Dongare,
Age; 56 years, Occ; Household,
R/o; Mohan Vishwanth Bundelkhandi
R/o; Tilak Chawk, Gadhi, Chalisgaon,
Tq. Chalisgaon, Dist. Jalgaon.

18-E) Sau Chhayabai Sarvagi,
Age; 54 years, Occ; Household,
R/o; Mohan Vishwanth Bundelkhandi

R/o; Tilak Chawk, Gadhi, Chalisgaon,
Tq. Chalisgaon, Dist. Jalgaon.

18-F) Ashabai Barsaiyan,
Age; 62 yrs, Occ; Household,
R/o; Mohan Vishwanth Bundelkhandi
R/o; Tilak Chawk, Gadhi, Chalisgaon,
Tq. Chalisgaon, Dist. Jalgaon.

18-G) Ramratibai Vishwanath Bundelkhandi,
Age; 68 yrs, Occ; Household,
R/o; Mohan Vishwanth Bundelkhandi
R/o; Tilak Chawk, Gadhi, Chalisgaon,
Tq. Chalisgaon, Dist. Jalgaon.

...Respondents

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Advocate for Applicant : Mr. V.D.Sapkal i/by Mr.G. L. Gujar
AGP for Respondent Nos. 1 to 5/State in WP : Ms.D.S.Jape
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CORAM : KISHORE C. SANT, J.

DATE : 08.08.2023.

PER COURT :

1. Heard. The applicant has filed a Writ Petition bearing No. 3195 of 2002 which is clubbed together with Writ Petition No.2362 of 2002 filed by the tenants of the petitioner, arising out of the orders passed in the Revenue Proceedings in respect of the declaration of the status of the respondents as tenants.

2. This Court, by order dated 09.07.2002 has already granted the status-quo. Subsequently in both Writ Petitions a

rule is granted by this Court and thus both the petitions are admitted. The Status-quo order was passed in the petition filed by the respondents herein. Though an order of the status-quo is still in force, one of the respondents i.e. the legal representative of the petitioner No. 8 in Writ Petition No. 2362 of 2002 applied to the learned Collector under Section 36 and 36-A of the Maharashtra Agriculture (Ceiling and Holding Act, 1961) and under Section 29, 36 and 36A of the Maharashtra Land Revenue Code, 1966, seeking permission of transfer the land in favour of some third person namely Sandeep Yadavrao. The learned Collector, Jalgaon has granted permission to sale the land by observing that though there was order of status-quo in Writ Petitions initially same does not appear to be there as of now.

3. The applicant had challenged the said order before the learned MRT, Aurangabad. There is also a stay granted to the order dated 24.03.2023 passed by the learned Collector. The applicant has thereafter, approached this Court with apprehension that the petitioners in Writ Petition No. 2362 of 2002 and the respondents in this application and Writ Petition

No. 3195 of 2002 are creating third party interest and therefore, prayed for the injunction restraining respondents from creating third party interest or alienating the suit land mentioned therein.

4. The learned Senior Advocate submits that the apprehension of the applicants is well founded as though the order of the status-quo is in operation that is passed in the Writ Petition of the respondent themselves, still they are trying to create third party interest. He, therefore, prays for allowing the application.

5. Heard the learned Advocates Mr. Thoke and Mr. Shinde for respondent Nos. 6 to 14. They pointed out that in Writ Petition No. 3195 of 2002, though there was specific prayer in Clause (D) praying for the same relief which is mentioned in the application and that was not considered while passing the order. They further submit that thus, there is no question of granting any interim relief after more than 20 years which was not granted at the time of passing the order. They further submit that the application made to the Collector was allowed by giving hearing to the applicants. The application filed by one

person can be no reason to apprehended as regards the other persons. They further submit that in any case, unless all the tenants seek permission from the Collector, no third party interest can be created. The Collector had also given notices to the applicants before passing the order. They then submit that the apprehension is totally ill-founded and no application needs to be rejected.

6. This Court after hearing the parties find that the Writ Petition No. 2362 of 2002 and 3195 of 2002 both are already admitted by this Court and those are pending for final hearing. The status-quo is already granted in Writ Petition No. 2662 of 2002 and therefore, there is no even clarification of the said position is required.

7. Though the applicants submit that the Collector has observed that it is not clear as to whether the status-quo is still enforce or not. This Court finds that even it need not be clarified once the order is already passed by this Court, there is nothing to indicate that at any point of time the said order is vacated. As regards the application filed by Mr. Pandit More is

concerned, the MRT has granted stay. In view of this, this Court finds that since the status-quo is there, there is no any reason to have apprehension in the mind of the applicant. In any case as submitted by learned Advocate Mr. Thoke that ultimately even the Collector has to pass an order only after hearing the applicant and at any point of time it is open for the applicant to bring the order of status-quo to the notice of the authority. In any case, he submits that there is no intention of the parties to create a third party interest, since they are personally cultivating the respective lands.

8. Thus, considering the subsequent submission, this Court finds that there is no need to interfere in the application and to grant any relief as prayed for. With this, the application stands disposed off.

**(KISHORE C. SANT)
JUDGE**

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