

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

FIRST APPEAL NO.568 OF 2021
AND
FIRST APPEAL NO.569 OF 2021
AND
FIRST APPEAL NO.570 OF 2021
AND
FIRST APPEAL NO.571 OF 2021
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FIRST APPEAL NO.572 OF 2021
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FIRST APPEAL NO.573 OF 2021
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FIRST APPEAL NO.574 OF 2021
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FIRST APPEAL NO.575 OF 2021
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FIRST APPEAL NO.296 OF 2022
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FIRST APPEAL NO.300 OF 2022
AND
FIRST APPEAL NO.301 OF 2022
AND
FIRST APPEAL NO.302 OF 2022
AND
FIRST APPEAL NO.303 OF 2022

FIRST APPEAL NO.568 OF 2021

Shri Madhukar s/o Mahadeo Wandre,
Aged about 44 years, occupation
agriculturist, r/o Arvi,
Tahsil Rajura, district Chandrapur.

..... **Appellant.**

:: VERSUS ::

1. Vishwanath s/o Karnuji Sontakke,
Aged about 81 years, occupation
retired, r/o Saibaba Ward,
Himgiri Apartments, Civil Lines,
Chandrapur.

2. Western Coal Fields Ltd.,
Through its Area General Manager,
Wani Area, at Urja Gram Tadali,
post Tadali, tahsil and district Chandrapur.

3. Latari s/o Zittra Gaurkar,
Aged about 68 years, occupation
agriculturist.

4. Ramchandra s/o Zittra Gaurkar,
Aged about 63 years, occupation
agriculturist.

Both No.3 and 4 r/o Wirur
(Gadegaon), tahsil Korpana, district
Chandrapur.

..... **Respondents.**

=====

Shri C.S.Kaptan, Senior Counsel with Shri N.R.Bhisikar,
Advocate for the Appellant.

Shri S.V.Manohar, Senior Counsel with Shri P.R.Agrawal,
Advocate for Respondent No.1.

Shri Rohit Joshi, Counsel for Respondent No.3.

Shri Madhur Deo, Counsel for Respondent No.4.

Shri N.G.Moharir, Counsel for the WCL.

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FIRST APPEAL NO.569 OF 2021

1. Shankar s/o Dadaji
Sapat, aged about 58 years, occupation
agriculturist, r/o Dhoptala Colony,
(Sasli) tahsil Rajura, district Chandrapur.

2. Shivaji s/o Latari Gaurkar,
aged about 37 years, occupation
agriculturist, r/o Wirar (Gade),
tahsil Korpana, district Chandrapur.

..... **Appellants.**

:: VERSUS ::

1. Vishwanath s/o Karnuji Sontakke,
Aged about 81 years, occupation
retired, r/o Saibaba Ward,
Himgiri Apartments, Civil Lines,
Chandrapur.

2. Western Coal Fields Ltd.,
Through its Area General Manager,
Wani Area, at Urja Gram Tadali,
post Tadali, tahsil and district Chandrapur.

3. Latari s/o Zitra Gaurkar,
Aged about 68 years, occupation
agriculturist.

4. Ramchandra s/o Zitra Gaurkar,
Aged about 63 years, occupation
agriculturist.

Both No.3 and 4 r/o Wirur
(Gadegaon), tahsil Korpana, district
Chandrapur.

..... **Respondents.**

=====

Shri C.S.Kaptan, Senior Counsel with Shri N.R.Bhisikar,
Advocate for the Appellants.

Shri S.V.Manohar, Senior Counsel with Shri P.R.Agrawal,
Advocate for Respondent No.1.

Shri Rohit Joshi, Counsel for Respondent No.3.

Shri Madhur Deo, Counsel for Respondent No.4.

Shri N.G.Moharir, Counsel for the WCL.

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FIRST APPEAL NO.570 OF 2021

1. Sau.Indubai w/o Shankar Sapat,
aged about 39 years, occupation
agriculturist, r/o Dhoptala Colony,
(Sasli) tahsil Rajura, district Chandrapur.

2. Shri Pravin s/o Ramchandra
Gaurkar, aged about 30 years,
occupation agriculturist, r/o Wirar
(Gadegaon) tahsil Korpana, district
Chandrapur.

..... **Appellants.**

:: VERSUS ::

1. Vishwanath s/o Karnuji Sontakke,
Aged about 81 years, occupation
retired, r/o Saibaba Ward,
Hingiri Apartments, Civil Lines,
Chandrapur.

2. Western Coal Fields Ltd.,
Through its Area General Manager,
Wani Area, at Urja Gram Tadali,
post Tadali, tahsil and district Chandrapur.

3. Latari s/o Zitra Gaurkar,
Aged about 68 years, occupation
agriculturist.

4. Ramchandra s/o Zitra Gaurkar,
Aged about 63 years, occupation
agriculturist.
Both No.3 and 4 r/o Wirur
(Gadegaon), tahsil Korpana, district
Chandrapur.

..... **Respondents.**

=====

Shri C.S.Kaptan, Senior Counsel with Shri N.R.Bhisikar,
Advocate for the Appellants.

Shri S.V.Manohar, Senior Counsel with Shri P.R.Agrawal,
Advocate for Respondent No.1.

Shri Rohit Joshi, Counsel for Respondent No.3.

Shri Madhur Deo, Counsel for Respondent No.4.

Shri N.G.Moharir, Counsel for the WCL.

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FIRST APPEAL NO.571 OF 2021

Shri Pravin s/o Latari Wadaskar,
Aged about 44 years, occupation
agriculturist, r/o Antargaon,
Tahsil Korpana, district Chandrapur.

..... **Appellant.**

:: VERSUS ::

1. Vishwanath s/o Karnuji Sontakke,
Aged about 81 years, occupation
retired, r/o Saibaba Ward,
Himgiri Apartments, Civil Lines,
Chandrapur.

2. Western Coal Fields Ltd.,
Through its Area General Manager,
Wani Area, at Urja Gram Tadali,
post Tadali, tahsil and district Chandrapur.

3. Latari s/o Zittra Gaurkar,
Aged about 68 years, occupation
agriculturist.

4. Ramchandra s/o Zittra Gaurkar,
Aged about 63 years, occupation
agriculturist.

Both No.3 and 4 r/o Wirur
(Gadegaon), tahsil Korpana, district
Chandrapur.

..... **Respondents.**

=====

Shri C.S.Kaptan, Senior Counsel with Shri N.R.Bhisikar,
Advocate for the Appellant.

Shri S.V.Manohar, Senior Counsel with Shri P.R.Agrawal,
Advocate for Respondent No.1.

Shri Rohit Joshi, Counsel for Respondent No.3.

Shri Madhur Deo, Counsel for Respondent No.4.

Shri N.G.Moharir, Counsel for the WCL.

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FIRST APPEAL NO.572 OF 2021

Shri Subhash s/o Mahadeo
Wandre, aged about 50 years,
occupation agriculturist, r/o Arvi,
tahsil Rajura, district Chandrapur. **Appellant.**

:: VERSUS ::

1. Vishwanath s/o Karnuji Sontakke,
Aged about 81 years, occupation
retired, r/o Saibaba Ward,
Himgiri Apartments, Civil Lines,
Chandrapur.

2. Western Coal Fields Ltd.,
Through its Area General Manager,
Wani Area, at Urja Gram Tadali,
post Tadali, tahsil and district Chandrapur.

3. Latari s/o Zitra Gaurkar,
Aged about 68 years, occupation
agriculturist.

4. Ramchandra s/o Zitra Gaurkar,
Aged about 63 years, occupation
agriculturist.

Both No.3 and 4 r/o Wirur
(Gadegaon), tahsil Korpana, district
Chandrapur. **Respondents.**

=====

Shri C.S.Kaptan, Senior Counsel with Shri N.R.Bhisikar,
Advocate for the Appellant.

Shri S.V.Manohar, Senior Counsel with Shri P.R.Agrawal,
Advocate for Respondent No.1.

Shri Rohit Joshi, Counsel for Respondent No.3.

Shri Madhur Deo, Counsel for Respondent No.4.

Shri N.G.Moharir, Counsel for the WCL.

=====

FIRST APPEAL NO.573 OF 2021

Shri Shantaram s/o Atmaram
Khandalkar, aged about 46 years,
occupation agriculturist, r/o Mungoli,
post – Sakhra, tahsil Wani, district
Yavatmal.

..... **Appellant.**

:: VERSUS ::

1. Vishwanath s/o Karnuji Sontakke,
Aged about 81 years, occupation
retired, r/o Saibaba Ward,
Hingiri Apartments, Civil Lines,
Chandrapur.

2. Western Coal Fields Ltd.,
Through its Area General Manager,
Wani Area, at Urja Gram Tadali,
post Tadali, tahsil and district Chandrapur.

3. Latari s/o Zittra Gaurkar,
Aged about 68 years, occupation
agriculturist.

4. Ramchandra s/o Zittra Gaurkar,
Aged about 63 years, occupation
agriculturist.

Both No.3 and 4 r/o Wirur
(Gadegaon), tahsil Korpana, district
Chandrapur.

..... **Respondents.**

=====

Shri C.S.Kaptan, Senior Counsel with Shri N.R.Bhisikar,
Advocate for the Appellant.

Shri S.V.Manohar, Senior Counsel with Shri P.R.Agrawal,
Advocate for Respondent No.1.

Shri Rohit Joshi, Counsel for Respondent No.3.

Shri Madhur Deo, Counsel for Respondent No.4.

Shri N.G.Moharir, Counsel for the WCL.

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FIRST APPEAL NO.574 OF 2021

Shri Bhalchandra s/o Bapuji Dahule,
aged about 38 years, occupation
agriculturist, r/o Pancharpauni,
tahsil Rajura, district Chandrapur.

..... **Appellant.**

:: VERSUS ::

1. Vishwanath s/o Karnuji Sontakke,
Aged about 81 years, occupation
retired, r/o Saibaba Ward,
Himgiri Apartments, Civil Lines,
Chandrapur.

2. Western Coal Fields Ltd.,
Through its Area General Manager,
Wani Area, at Urja Gram Tadali,
post Tadali, tahsil and district Chandrapur.

3. Latari s/o Zitra Gaurkar,
Aged about 68 years, occupation
agriculturist.

4. Ramchandra s/o Zitra Gaurkar,
Aged about 63 years, occupation
agriculturist.

Both No.3 and 4 r/o Wirur
(Gadegaon), tahsil Korpana, district
Chandrapur.

..... **Respondents.**

=====

Shri C.S.Kaptan, Senior Counsel with Shri N.R.Bhisikar,
Advocate for the Appellant.

Shri S.V.Manohar, Senior Counsel with Shri P.R.Agrawal,
Advocate for Respondent No.1.

Shri Rohit Joshi, Counsel for Respondent No.3.

Shri Madhur Deo, Counsel for Respondent No.4.

Shri N.G.Moharir, Counsel for the WCL.

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FIRST APPEAL NO.575 OF 2021

Shri Waman s/o Dattuji
Malekar, aged about 55 years, occupation
agriculturist, r/o Dorli, post Kural,
tahsil Wani, district Yavatmal. **Appellant.**

:: VERSUS ::

1. Vishwanath s/o Karnuji Sontakke,
Aged about 81 years, occupation
retired, r/o Saibaba Ward,
Himgiri Apartments, Civil Lines,
Chandrapur.

2. Western Coal Fields Ltd.,
Through its Area General Manager,
Wani Area, at Urja Gram Tadali,
post Tadali, tahsil and district Chandrapur.

3. Latari s/o Zitra Gaurkar,
Aged about 68 years, occupation
agriculturist.

4. Ramchandra s/o Zitra Gaurkar,
Aged about 63 years, occupation
agriculturist.

Both No.3 and 4 r/o Wirur
(Gadegaon), tahsil Korpana, district
Chandrapur. **Respondents.**

=====

Shri C.S.Kaptan, Senior Counsel with Shri N.R.Bhisikar,
Advocate for the Appellant.

Shri S.V.Manohar, Senior Counsel with Shri P.R.Agrawal,
Advocate for Respondent No.1.

Shri Rohit Joshi, Counsel for Respondent No.3.

Shri Madhur Deo, Counsel for Respondent No.4.

Shri N.G.Moharir, Counsel for the WCL.

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FIRST APPEAL NO.296 OF 2022

Latari s/o Zitra Gaurkar,
aged about 68 years, occupation agriculturist,
r/o Wirur (Gadegaon), tahsil Korpana,
district Chandrapur. **Appellant.**

:: VERSUS ::

1. Vishwanath s/o Karnuji Sontakke,
Aged about 81 years, occupation
retired, r/o Saibaba Ward,
Himgiri Apartments, Civil Lines,
Chandrapur.

2. Waman s/o Dattuji Malekar,
aged major, occupation agriculturist,
r/o village Dorli, post Kurai, tahsil
Wani, district Yavatmal.

3. Ramchandra s/o Zitra Gaurkar,
aged about 63 years, occupation agriculturist,
r/o Wirur (Gadegaon), tahsil Korpana,
district Chandrapur.

4. Western Coal Fields Ltd.,
Through its Area General Manager,
Wani Area, at Urja Gram Tadali,
post Tadali, tahsil and district Chandrapur. **Respondents.**

=====

Shri Rohit Joshi, Counsel for the Appellant.

Shri S.V.Manohar, Senior Counsel with Shri P.R.Agrawal,
Advocate for Respondent No.1.

Shri C.S.Kaptan, Senior Counsel with Shri N.R.Bhisikar,
Advocate for Respondent No.2.

Shri Madhur Deo, Counsel for Respondent No.3.

Shri N.G.Moharir, Counsel for the WCL.

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FIRST APPEAL NO.297 OF 2022

Latari s/o Zitra Gaurkar,
aged about 68 years, occupation agriculturist,
r/o Wirur (Gadegaon), tahsil Korpana,
district Chandrapur. **Appellant.**

:: VERSUS ::

1. Vishwanath s/o Karnuji Sontakke,
Aged about 81 years, occupation
retired, r/o Saibaba Ward,
Himgiri Apartments, Civil Lines,
Chandrapur.

2. Pravin s/o Latari Wadaskar,
aged major, occupation agriculturist,
r/o village Antargaon, tahsil
Koparna, district Chandrapur.

3. Ramchandra s/o Zitra Gaurkar,
aged about 63 years, occupation agriculturist,
r/o Wirur (Gadegaon), tahsil Korpana,
district Chandrapur.

4. Western Coal Fields Ltd.,
Through its Area General Manager,
Wani Area, at Urja Gram Tadali,
post Tadali, tahsil and district Chandrapur. **Respondents.**

=====

Shri Rohit Joshi, Counsel for the Appellant.

Shri S.V.Manohar, Senior Counsel with Shri P.R.Agrawal,
Advocate for Respondent No.1.

Shri C.S.Kaptan, Senior Counsel with Shri N.R.Bhisikar,
Advocate for Respondent No.2.

Shri Madhur Deo, Counsel for Respondent No.3.

Shri N.G.Moharir, Counsel for the WCL.

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FIRST APPEAL NO.298 OF 2022

Latari s/o Zitra Gaurkar,
aged about 68 years, occupation agriculturist,
r/o Wirur (Gadegaon), tahsil Korpana,
district Chandrapur. **Appellant.**

:: VERSUS ::

1. Vishwanath s/o Karnuji Sontakke,
Aged about 81 years, occupation
retired, r/o Saibaba Ward,
Himgiri Apartments, Civil Lines,
Chandrapur.

2. Shankar s/o Dadaji Sapat,
aged major, occupation agriculturist,
r/o Dhoptala (Colony Sasli), tahsil
Rajura, district Chandrapur.

3. Shivaji s/o Latari Gaurkar,
aged major, occupation agriculturist,
r/o Wirur (Gadegaon), tahsil Korpana,
district Chandrapur.

4. Ramchandra s/o Zitra Gaurkar,
aged about 63 years, occupation agriculturist,
r/o Wirur (Gadegaon), tahsil Korpana,
district Chandrapur.

5. Western Coal Fields Ltd.,
Through its Area General Manager,
Wani Area, at Urja Gram Tadali,
post Tadali, tahsil and district Chandrapur. **Respondents.**

=====

Shri Rohit Joshi, Counsel for the Appellant.

Shri S.V.Manohar, Senior Counsel with Shri P.R.Agrawal,
Advocate for Respondent No.1.

Shri C.S.Kaptan, Senior Counsel with Shri N.R.Bhisikar,
Advocate for Respondent No.2 & 3.

Shri Madhur Deo, Counsel for Respondent No.4.

Shri N.G.Moharir, Counsel for the WCL.

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FIRST APPEAL NO.299 OF 2022

Latari s/o Zitra Gaorkar,
aged about 68 years, occupation agriculturist,
r/o Wirur (Gadegaon), tahsil Korpana,
district Chandrapur. **Appellant.**

:: VERSUS ::

1. Vishwanath s/o Karnuji Sontakke,
Aged about 81 years, occupation
retired, r/o Saibaba Ward,
Himgiri Apartments, Civil Lines,
Chandrapur.

2. Shantaram s/o Amaram Khandalkar,
aged major, occupation agriculturist,
r/o village Mungoli, post Sakhara (Kol),
tahsil Wani, district Yavatmal.

3. Ramchandra s/o Zitra Gaorkar,
aged about 63 years, occupation agriculturist,
r/o Wirur (Gadegaon), tahsil Korpana,
district Chandrapur.

4. Western Coal Fields Ltd.,
Through its Area General Manager,
Wani Area, at Urja Gram Tadali,
post Tadali, tahsil and district Chandrapur. **Respondents.**

=====

Shri Rohit Joshi, Counsel for the Appellant.

Shri S.V.Manohar, Senior Counsel with Shri P.R.Agrawal,
Advocate for Respondent No.1.

Shri C.S.Kaptan, Senior Counsel with Shri N.R.Bhisikar,
Advocate for Respondent No.2.

Shri Madhur Deo, Counsel for Respondent No.3.

Shri N.G.Moharir, Counsel for the WCL.

=====

FIRST APPEAL NO.300 OF 2022

Ramchandra s/o Zitra Gaurkar,
aged about 63 years, occupation agriculturist,
r/o Wirur, (Gadegaon), tahsil Korpana,
district Chandrapur. **Appellant.**

:: VERSUS ::

1. Vishwanath s/o Karnuji Sontakke,
Aged about 81 years, occupation
retired, r/o Saibaba Ward,
Himgiri Apartments, Civil Lines,
Chandrapur.

2. Subhash s/o Mahadeo Wandhare,
aged about 44 years, occupation agriculturist,
r/o village, Arvi, tahsil Rajura, district
Chandrapur.

3. Latari s/o Zitra Gaurkar,
aged about 68 years, occupation agriculturist,
r/o Wirur (Gadegaon), tahsil Korpana,
district Chandrapur.

4. Western Coal Fields Ltd.,
Through its Area General Manager,
Wani Area, at Urja Gram Tadali,
post Tadali, tahsil and district
Chandrapur. **Respondents.**

=====

Shri Madhur Deo, Counsel for the Appellant.

Shri S.V.Manohar, Senior Counsel with Shri P.R.Agrawal,
Advocate for Respondent No.1.

Shri C.S.Kaptan, Senior Counsel with Shri N.R.Bhisikar,
Advocate for Respondent No.2.

Shri Rohit Joshi, Counsel for Respondent No.3.

Shri N.G.Moharir, Counsel for the WCL.

=====

FIRST APPEAL NO.301 OF 2022

Ramchandra s/o Zitra Gaurkar,
aged about 63 years, occupation agriculturist,
r/o Rirur, (Gadegaon), tahsil Korpana,
district Chandrapur. **Appellant.**

:: VERSUS ::

1. Vishwanath s/o Karnuji Sontakke,
Aged about 81 years, occupation
retired, r/o Saibaba Ward,
Himgiri Apartments, Civil Lines,
Chandrapur.

2. Bhalchandra s/o Bapuji Dahule,
aged major, occupation agriculturist,
r/o village Pandarpouni, tahsil Rajura,
district Chandrapur

3. Latari s/o Zitra Gaurkar,
aged about 68 years, agriculturist,
r/o Wirur (Gadegaon), tahsil Korpana,
district Chandrapur.

4. Western Coal Fields Ltd.,
Through its Area General Manager,
Wani Area, at Urja Gram Tadali,
post Tadali, tahsil and district Chandrapur. **Respondents.**

=====

Shri Madhur Deo, Counsel for the Appellant.

Shri S.V.Manohar, Senior Counsel with Shri P.R.Agrawal,
Advocate for Respondent No.1.

Shri C.S.Kaptan, Senior Counsel with Shri N.R.Bhisikar,
Advocate for Respondent No.2.

Shri Rohit Joshi, Counsel for Respondent No.3.

Shri N.G.Moharir, Counsel for the WCL.

=====

FIRST APPEAL NO.302 OF 2022

Ramchandra s/o Zittra Gaurkar,
aged about 63 years, occupation agriculturist,
r/o Rirur, (Gadegaon), tahsil Korpana,
district Chandrapur. **Appellant.**

:: VERSUS ::

1. Vishwanath s/o Karnuji Sontakke,
Aged about 81 years, occupation
retired, r/o Saibaba Ward,
Himgiri Apartments, Civil Lines,
Chandrapur.

2. Indubai Shankar Sapat,
aged major, occupation agriculturist,
r/o Dhoptala (Colony Sasli), tahsil
Rajura, district Chandrapur.

3. Pravin s/o Ramchandra Gaurkar,
aged major occupation agriculturist,
R/o Wirur (Gadegaon), tahsil Korpana,
district Chandrapur.

4. Latari s/o Zittra Gaurkar,
Aged about 68 years, occupation agriculturist,
R/o Wirur (Gadegaon), tahsil Korpana,
district Chandrapur.

5. Western Coal Fields Ltd.,
Through its Area General Manager,
Wani Area, at Urja Gram Tadali,
post Tadali, tahsil and district Chandrapur. **Respondents.**

=====

Shri Madhur Deo, Counsel for the Appellant.

Shri S.V.Manohar, Senior Counsel with Shri P.R.Agrawal,
Advocate for Respondent No.1.

Shri C.S.Kaptan, Senior Counsel with Shri N.R.Bhisikar,
Advocate for Respondent No.2 & 3.

Shri Rohit Joshi, Counsel for Respondent No.4.

Shri N.G.Moharir, Counsel for the WCL.

=====

FIRST APPEAL NO.303 OF 2022

Ramchandra s/o Zittra Gaurkar,
aged about 63 years, occupation agriculturist,
r/o Wirur, (Gadegaon), tahsil Korpana,
district Chandrapur. **Appellant.**

:: VERSUS ::

1. Vishwanath s/o Karnuji Sontakke,
Aged about 81 years, occupation
retired, r/o Saibaba Ward,
Himgiri Apartments, Civil Lines,
Chandrapur.

2. Shri Madhukar s/o Mahadeo Wandhare,
Aged about 44 years, occupation
agriculturist, r/o village Arvi,
Tahsil Rajura, district Chandrapur.

3. Latari s/o Zittra Gaurkar,
Aged about 68 years, occupation agriculturist,
R/o Wirur (Gadegaon), tahsil Korpana,
district Chandrapur.

4. Western Coal Fields Ltd.,
Through its Area General Manager,
Wani Area, at Urja Gram Tadali,
post Tadali, tahsil and district Chandrapur. **Respondents.**

=====

Shri Madhur Deo, Counsel for the Appellant.

Shri S.V.Manohar, Senior Counsel with Shri P.R.Agrawal,
Advocate for Respondent No.1.

Shri C.S.Kaptan, Senior Counsel with Shri N.R.Bhisikar,
Advocate for Respondent No.2.

Shri Rohit Joshi, Counsel for Respondent No.3.

Shri N.G.Moharir, Counsel for the WCL.

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CORAM : URMILA JOSHI-PHALKE, J.

CLOSED ON : 21/02/2023

PRONOUNCED ON : 25/04/2023

COMMON JUDGMENT

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1. The present bunch of appeals are preferred against order dated 2.11.2021 passed by the Special Tribunal at Nagpur [under the Coal Bearing Areas (Acquisition and Development) Act, 1957] (hereinafter is referred as the said Act) whereby one Vishwanath s/o Karnuji Sontakke is held to be interested person to claim the compensation.

2. Brief facts in nutshell are as under:

Vishwanath s/o Karnuji Sontakke, had filed Regular Civil Suit No.87/2009 in the Court of learned Civil Judge Junior Division, Rajura against Latari s/o Zitra Gaurkar and Ramchandra s/o Zitra Gaurkar for possession and recovery of damages. As per his allegations, he was serving in the Western Coalfields Limited (WCL) and he retired in the year 1999. His father Karnuji died at Chandrapur on 30.4.1985. In the year 1953, Karnuji, Zitra, Kachru, Kawdu, and Narayan, the five partners purchased 180 acres of land from one Rajmal Pirudan (Marwadi). In the year 1954, all the five partners entered into partition and got allotted their respective shares and took the possessions of respective shares with consent of each other. The oral terms of the

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partition were reduced into writing "Farad" called "Partition Deed" or "Watani Patra" dated 9.6.1954. The partition was implemented and accordingly revenue entries came into effect. As per the said partition, Karnuji (father of Vishwanath) was allotted field namely Lavhali Karambodi, having old survey No.24 admeasuring 7.81HR (19.61 acres) which was barren land. All the five partners started cultivating their respective lands. Karnuji was cultivating the said land at Lavhali situated at mouza Khairgaon and Karambodi situated at Danoda till 1963-64. In the year 1963-64, Karnuji had paralytic attack and died in the year 1985. Subsequently, Vishwanath came to know that Zitra and after death of Zitra his sons Latari and Ramchandra got their names mutated as owners by playing fraud. They have also shown that they are in possession of the field namely Karambodi. Survey No.24 known as Karambodi was converted into new survey Nos.41 and 42. This Karambodi field was entirely acquired by the WCL for the Coal Project. As Latari and Ramchandra were shown to be in possession of survey No.24, new survey Nos.41 and 42, Vishwanath issued notices to them and filed the suit for possession and injunction.

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3. The said suit was contested by Latari and Ramchandra by filing their common written statement. As per their contentions, survey No.24, new survey Nos.41 and 42, has been in their possession since the life time of their father Zitra i.e. since 1953 and they being legal heirs of Zitra succeeded to survey No.24, now survey Nos.41 and 42. They further contended that by mutual partition, their father was allotted survey Nos.41 and 42. As the WCL was intending to acquire the land, the false suit is filed.

4. Learned Civil Judge Junior Division, Rajura, after recording the evidence and appreciating the same, decreed the suit. The judgment and decree passed by learned Civil Judge Junior Division, Rajura was challenged before learned District Judge, Chandrapur in first appeal bearing No.219/2012. Eight persons, who were vendees, namely Shri Madhukar s/o Mahadeo Wandre; Shankar s/o Dadaji Sapat; Sau.Indubai w/o Shankar Sapat; Shri Pravin s/o Latari Wadaskar; Shri Subhash s/o Mahadeo; Shri Shantaram s/o Atmaram Khandalkar; Shri Bhalchandra s/o Bapuji Dahule, and Shri Waman s/o Dattuji Malekar had filed an application, during the pendency of the said appeal, for adding them as

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party raising the contentions that they have purchased the sub divided survey Nos.41 and 42 from Latari and Ramchandra. The said application was rejected. The order of learned District Judge, Chandrapur was challenged before this Court by filing Writ Petition No.895/2017. The said writ petition was allowed and in view of the order of this Court, learned District Court, Chandrapur remanded the suit directing the trial court to permit the purchasers to add them as necessary party and allow them to file their written statements.

5. During the pendency of the said suit, the WCL published Notification under Section 4(1) of the said Act on 18.7.2009 for acquiring old survey No.24, new survey Nos.41 and 42, which is known as Lavhali, Karambodi. After the Notification of the acquisition, the vendees claimed that they have purchased survey Nos.41 and 42 and they are *bona fide* purchasers. They further claimed that the acquired land was never allotted to the share of Karnuji, but allotted to Zitra. Karambodi (Pathar) was subsequently numbered as survey

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No.32 and it was treated as "Kharij Khata" (forfeited/reverted to the Government of Maharashtra). Thus, as per the contentions, Karambodi land was the Government Land. The land namely 'Khodang' was acquired and not 'Karambodi' which was initially having survey No.17 which was then converted into 24 and which was subsequently converted into survey Nos.41 and 42.

6. Considering the fact that the ownership in respect of survey Nos.41 and 42 is in dispute, to determine the person 'interested' to receive compensation, the WCL filed eight applications before the Special Tribunal under Section 17(1) of the said Act on the ground that the Government of India vide Notification published under Section 9(1) dated 29.10.2010 and Section 11(i) of the said Act acquired the field gat No.41/1 admeasuring 1H 00R of village Danoda, taluka Korpana, district Chandrapur. The compensation amount Rs.19,52,090/- is determined. However, the dispute regarding the ownership is pending in Regular Civil Suit No.87/2009 filed in the Court of learned Civil Judge Junior Division, Rajura.

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7. In those eight applications filed by the WCL, arraying Latari Zitru and Ramchandra Zitru and respective vendees, in whose favour the sale deeds were executed, by order of the Special Tribunal dated 25.2.2021, Vishwanath s/o Karnuji Sontakke was ordered to be added as non-applicant as it was revealed from the record that said Vishwanath filed suit against Latari and Ramchandra.

8. In response to Notices, all the applicants filed their statements. Non-applicant Vishwanath s/o Karnuji Sontakke adduced his evidence by examining himself and claimed his ownership on the basis of partition deed dated 9.6.1954. One Kirtidas Kacharu Karmankar was also examined in all these applications. Non-applicant Ramchandra as well as all the vendees also stepped into the witness box.

9. After appreciating the oral as well as documentary evidence, the Special Tribunal held that Vishwanath s/o Karnuji Sontakke is the person "interested" and entitled to receive the compensation.

10. Being aggrieved and dissatisfied with the judgment and order of the Special Tribunal, the first set of appeals i.e.

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First Appeal Nos.568 to 575/2021 are filed by the vendees. Whereas, the second set of appeals i.e. First Appeal Nos.296 to 303/2022 are filed by Latari Zittra and Ramchandra Zittra. The appeals are filed mainly on the ground that the Special Tribunal, Nagpur in fact adjudicated upon the title although it did not have jurisdiction to decide the title. The core controversy involved in the proceedings before the Special Tribunal pertains to the title of the property and, therefore, the order of the Special Tribunal deserves to be quashed and set aside.

11. Heard both learned senior counsel and learned counsels appearing for respective parties.

12. Learned senior counsel Shri C.S.Kaptan submitted that the applications were moved by the WCL before the Special Tribunal only to ascertain who is "interested" person to disburse the compensation. The Special Tribunal has decided who is the owner of the property and thus decided the title which is beyond the scope of the Special Tribunal. Admittedly, five persons namely Karnuji, Zittra, Kachru, Kawdu, and Narayan have purchased 180 acres of land. They have

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partitioned the land on 9.6.1954. The partition deed was executed. In view of the partition, relevant entries are taken. Section 4 Notification was issued on 18.7.2009. Vishwanath s/o Karnuji Sontakke, had filed Regular Civil Suit No.87/2009 in the Court of learned Civil Judge Junior Division, Rajura for possession on 26.11.2009 based on the title. The said suit was decreed on 29.6.2012. The said decree was challenged by preferring an appeal bearing No.219/2012. The vendees filed an application for adding them as necessary party which was rejected by learned Ad Hoc District Judge, Chandrapur. The vendees have filed writ petition No.895/2017 which was allowed and the vendees were permitted to be added as parties. The appellate court remanded the suit by setting the decree. The Special Tribunal proceeded before the suit was decided. The writ petition No.2314/2021 was filed on 28.9.2021 by which this Court restrained the Special Tribunal by passing any orders. The orders passed in the writ petition was not challenged and it became final. Vishwanath withdrawn the suit. Thus, Vishwanath has given up the right of title unconditionally. Since no suit was pending, the Special Tribunal decided the applications. In fact, since 1962-63 the

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land was recorded in the name of Latari. Would it be permissible to the Special Tribunal to declare Vishwanath as owner of the property. The land was subjected for Consolidation and Fragmentation of Scheme. During his submissions, learned senior counsel Shri C.S.Kaptan referred Sections 19, 20, 21, and 24 of the said Act and submitted that after following the procedure, the title of Latari was finalized and the certificate of title was issued. The possession of Latari was confirmed in view of the provisions of the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act. The long standing entries are not considered. The question of title was beyond jurisdiction of the tribunal. The special tribunal has very limited scope. In view of Section 157 of the Maharashtra Land Revenue Code, there is presumptive value to the said entries. Thus, findings of the tribunal are perverse and liable to be set aside.

13. *Per contra*, learned senior counsel Shri S.V.Manohar submitted that the question before the tribunal was who is the "interested" person in view of Section 2(f) of the said Act. Section 14 of the said Act, speaks about the Scheme of the Act. In view of Section 14(5) of the said Act,

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the special tribunal has to see the entitlement. Learned senior counsel referred the observations of this court in Writ Petition No.4935/2017. Learned senior counsel further submitted that the partition deed is admitted to all the parties which shows that agricultural land Lavhali Karambodi was allotted to Karnuji, who was the father of Vishwanath. Survey No.41 is Karambodi as per the pleadings of Latari. It is pleaded that survey No.17 became survey No.24 and after consolidation, it became survey Nos.41 and 42. Karambodi. All documents show Karambodi land is shown as survey Nos.41 and 42. Exhibit-15 shows that the owners of survey No.24 was Karnuji and it was cultivated by Karnuji. Exhibit-26 completely proves that survey No.24 was owned by Karnuji. Section 2(8) of the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act defines as regards "owner". Survey No.17 is existing after the application of Consolidation and Fragmentation Scheme. Karnuji was always owner of survey No.24 which was subsequently numbered as survey Nos.41 and 42. Learned senior counsel further submitted that during the scrutiny of the documents, the Special Tribunal came to the conclusion that it was Vishwanath who is the

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"interested" person. The suit filed by Vishwanath was not for the title, but it was for possession and injunction. Thus, the Special Tribunal has only conducted an enquiry to ascertain who is the "interested" person which is permissible under the provisions of the said Act, especially in view of Section 14(5) of the said Act and, therefore, the appeals are devoid of merits and liable to be dismissed.

14. Having heard respective learned senior counsel and learned counsel for respective parties and perused the record, it reveals that there is no dispute that Kawdu Gana Harijan, Kachru Bhiwa Harijan, Narayan Harijan, Zittra Gaurkar, and Karnu Mahadev Harijan have purchased the land of 180 acres. It is further undisputed that the oral partition took place between them which was reduced into writing on 9.6.1954. As per the partition document, admittedly, survey numbers are not mentioned in the said document. As per the said partition deed or "watani patra", the land was divided as follows:

- a. agricultural land namely "Gopan" was allotted to Kawdu Gana Harijan;

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b. agricultural land namely "Pidurkari" was allotted to Kachru Bhiwa;

c. agricultural land namely "Ghotban" of eastern portion was allotted to Narayan Harijan;

d. agricultural land of western portion of the land "Ghotban" namely "Kholang" was allotted to Zitru Rama, and

e. agricultural land Lavhali Karambodi (Pathar) entirely was allotted to Karnu Mahadev Harijan.

15. Besides the oral evidence, Vishwanath placed reliance on Exhibit-15 7/12 extract showing the name of his father Karnu Mahadev Mahar as possessor of survey No.24. Exhibit-15 shows that since 1966-67 name of Zitru was shown as tenant (kul) in survey No.24 till 1968-69. Since 1969-70 name of Latari is appearing as a tenant (kul). He further placed reliance on Exhibit-16, 7/12 extract of the year 1976-77 showing name of Latari Zitru as possessor. Exhibit-17 is the extract of mutation register. In the said extract, at serial No.108, entry is to the effect that "Karnu Mahadev" is owner, but during enquiry it revealed that Zitru Rama is cultivating the said land since 1966-67 and hence his name was

confirmed as a possessor. Exhibit-18 is 7/12 extract of survey No.24 and Exhibit-19 is the extract of survey No.41.

16. Vishwanath had filed a suit bearing No.87/2009 which was renumbered as 30/2019 after remand. As per his pleadings, old survey No.24 converted into new survey Nos.41 and 42 admeasuring 7.81HR (19.61 acres) was owned by his father Karnuji. His father has cultivated the said land till 1963-64. In the year 1963-64, his father had paralytic attack and, therefore, he could not cultivate the said land and, thereafter, it was a barren land. His father died in the year 1985. He was serving in the WCL. So, he could not cultivate the land. Thus, after the death of his father, he became the owner of the said land. Latari contested the suit on the ground that survey Nos.41 and 42 having old survey No.24 is in their possession since the life time of his father that is since 1953. Admittedly, Section 4 Notification was issued on 18.7.2009. The appellants in appeal No.568 to 575/2021 are admittedly the vendees. All the said sale deeds are executed in their favour on 1.10.2009 that is after the Notification under Section 4.

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17. The law is settled regarding the sale deed executed after issuance of the Notification. Perusal of Section 4 of the said Act as well as the provisions of the Land Acquisition Act, 1894 clearly show that any transfer/sale after publication of Section 4 Notification becomes void and having no force of law.

18. The Honourable Apex Court in the case of Mahavir and another vs. Rural Institute, Amravati and another reported in 1995(5) SCC 335 has observed that "sales made after the publication of the notification under Section 4(1) are void sales and the State is not bound by such a sale effected by the owner. So any encumbrance made by the owner after notification under Section 4(1) was published does not bind the State."

The Honourable Apex Court in another judgment in the case of Sneh Prabha (Smt.) and others vs. State of U.P. and another, reported in (1996)7 SCC 426 has held that "it is settled law that any person who purchases land after publication of the notification under Section 4[1], does so at his/her own peril. The object of publication of the notification

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under Section 4[1] is notice to everyone that the land is needed or is likely to be needed for public purpose and the acquisition proceedings points out an impediment to anyone to encumber the land acquired thereunder. It authorizes the designated officer to enter upon the land to do preliminaries etc. Therefore, any alienation of land after the publication of the notification under Section 4[1] does not bind the Government or the beneficiary under the acquisition."

The Honourable Apex Court in the case of **Jal Nigam, Lucknow, through its Chairman and another vs. Kalra Properties (P) Ltd., Lucknow and others**, reported in **(1996)3 SCC 124**, relied by learned senior counsel Shri C.S.Kaplan, has held that, "after the Notification under Section 4(1) is published in the Gazette, any encumbrance created by the owner does not bind the Government and the purchaser does not acquire any title to the property. The sale is void against the State and the purchaser acquired no right, title or the interest in the said land."

19. Thus, in the light of the above well settled legal position, it is clear that vendees in the present appeals have

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purchased the said land on 1.10.2009 that is after Section 4(1) Notification of the said Act published in the Government Gazette on 18.7.2009. Thus, they have no rights, title or interest and on that ground their appeals deserve to be dismissed.

20. In the above facts and circumstances, points arise for the consideration are:

1. Who is the "interested" person to claim the compensation?
2. Whether the Special Tribunal travelled beyond jurisdiction?

21. It is already held that the "Partition Deed" or "Watani Patra" is the undisputed position. It is also undisputed that Karnuji was allotted land namely Lavhali Karambodi, by the said partition. Exhibit-15, 7/12 extract also shows that the name of Karnu Mahadev as a possessor of survey No.24. Though Latari and Ramchandra claimed that their father was in possession of survey No.24 since the year 1953, no documentary evidence is adduced to that effect. The name of their father Zittra, as per Exhibit-15 7/12 extract, is appearing since the year 1966-67 as a tenant (kul) in

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survey No.24 till the year 1968-69. Since the year 1969-70, name of Latari is appearing as a tenant (kul). Exhibit-16 7/12 extract shows the name of Latari as possessor. Thus, name of Zittra is first time appearing in 7/12 extract as a kul in the year 1966-67. It is not the case of none of parties that the partition took place in the year 1966-67. Exhibit-17, which is an extract of mutation register, clarifies fact that at serial No.108, entry is to the effect that Karnu Mahadev is owner, but during enquiry it revealed that Zittra Rama is cultivating the said land. Hence, name of Zittra Rama was entered. Thus, it is crystal clear that name of Zittra Rama is first time entered as a possessor (kabjedar) in the year 1966-67. The suit filed by Vishwanath, that is Regular Civil Suit No.87/2009, wherein he has pleaded that as his father had a paralytic attack, he could not cultivate the land. Vishwanath was also serving in the WCL and, therefore, the land was a barren land. Admittedly the said suit was withdrawn by Vishwanath and he proceeded with the applications pending before the Special Tribunal. During the pendency of the applications, the application was moved on behalf of Latari and Ramchandra before the tribunal for grant of stay of the proceedings on the

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ground that the Special Tribunal has no jurisdiction to decide the title. The said application was rejected. The order of the Special Tribunal was subject matter of Writ Petition No.895/2017 wherein this Court has granted the stay by passing order that, "however, insofar as the determination of the entitlement of the person to receive the same is concerned, the same shall be subject to result of the Regular Civil Suit No.30/2019." Thus, this court held that as RCS No.87/2009 (new number No.30/2019) is pending in civil court at Korpana, the tribunal shall not proceed. It is further observed by this Court in paragraph No.10, "the language of Section 14(5) of the said Act indicates that in deciding the dispute and making an award, the tribunal has to specify the person or persons to whom the compensation has to be paid and in case there is a dispute as to the same and the tribunal finds that more than one person is entitled to the compensation, it has also to determine the apportionment regarding the amount. The entitlement of the tribunal to determine the amount of compensation or the person to whom it is to be paid would not mean that the tribunal would

have the power and authority to determine the title of the property.”

22. Thus, this court directed the Special Tribunal to wait till the decision in RCS No.30/2019.

23. On 29.10.2021, Vishwanath filed an application contending that he withdrawn the suit. As the suit was withdrawn, the Special Tribunal proceeded with the applications and decided that Vishwanath Karnuji is the only person who is the person “interested” and entitled for the compensation.

24. The prime submission by learned senior counsel Shri C.S.Kaptan is that the Special Tribunal has no jurisdiction to decide the title. As Vishwanath has withdrawn the suit, he waived his title and, therefore, the Special Tribunal ought to have decided the applications in favour of Latari and Ramchandra. In support of his contentions, he placed reliance on the observations of this court in Civil Revision Application No.60/2018 along with connected matters, which are as follows:

"It is well settled that a provision ousting the jurisdiction of a civil court must be strictly construed. The jurisdiction of the civil court under section 9 of the Code of Civil Procedure is expansive and takes within its sweep every suit of a civil nature except a suit of which cognizance is either expressly or impliedly barred. A provision which purports to bar the jurisdiction of the civil court must be strictly construed. Section 26 of the Act, construed thus, would bar the jurisdiction of the civil court to take cognizance only of those matters which are necessarily to be decided by the authorities or the Tribunal under the Act. In the case at hand, the civil suits seek to establish title. The civil suits do not question the acquisition nor do they question the quantum of compensation. The entitlement to the compensation would follow the decision on title. However, this Court has no hesitation in holding that dispute touching the title to the property acquired cannot be finally determined by the Tribunal constituted under section 14 of the Act. The jurisdiction of the civil court to decide the issues of title to the property acquired is not ousted."

He further submitted that considering the long standing possession of Latari and Ramchandra, they became owners by way of adverse possession. In support of his contention, he placed reliance on the decision of the Honourable Apex Court in the case of State Of Rajasthan vs Harphool Singh (Dead), through his legal heirs, reported in (2000)5 SCC 652. He further placed reliance on the decision of this Court in the case of Prabhakar Kushaba Hagwane Vs.

Yashwant Bhau Hagwane since deceased by Lrs. Ganpat Yashwant Hagwane, reported in 1993 SCC OnLine 264 wherein it is held that the plaintiff allotted holding under the Scheme prepared under Section 20 of the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act - his name was entered in the record of rights. The Scheme under Section 20 of the Act is complete as soon as possession is delivered.

Thus, he submitted that the long standing entries in the name of Latari and Ramchandra clarify the fact that they are owners and Vishwanath is not concerned with the acquired property.

25. Before entering into the merits of the matter, it is necessary to see the relevant provisions of the said Act.

26. Section 4 of the said Act deals with Notification respecting the intention to prospect for coal in any area and powers or competent authorities thereon.

Section 10 of the said Act determines that on the publication of the Notification in the official gazette of the

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declaration under Section 9 of the Act, the land or the rights in or over the land, as the case may be, shall vest absolutely in the Central Government (free from all the encumbrances).

Section 14 of the said Act speaks about the method of determining compensation.

In view of Section 14(5) of the said Act, the tribunal shall after hearing a dispute, has to make an award determining the compensation which appears to be just and specify person/persons to whom the compensation shall be paid. The Scheme of Section 14 is that if the amount of compensation is fixed by agreement, it shall be paid in accordance with the said agreement and only if such agreement is not reached, then the Central Government shall constitute a tribunal for the purpose of determining the amount.

Section 17(1) of the said Act refers to the compensation payable under the Act. The reference is to the compensation agreed or to the compensation determined by the tribunal.

27. This Court in Civil Revision Application No.60/2018 decided on 1.4.2019 held that it is well settled that a provision ousting the jurisdiction of a civil court must be strictly construed. The jurisdiction of the civil court under section 9 of the Code of Civil Procedure is expansive and takes within its sweep every suit of a civil nature except a suit of which cognizance is either expressly or impliedly barred. A provision which purports to bar the jurisdiction of the civil court must be strictly construed. Section 26 of the Act, construed thus, would bar the jurisdiction of the civil court to take cognizance only of those matters which are necessarily to be decided by the authorities or the Tribunal under the Act. In the case at hand, the civil suits seek to establish title. The civil suits do not question the acquisition nor do they question the quantum of compensation. The entitlement to the compensation would follow the decision on title. However, this Court has no hesitation in holding that dispute touching the title to the property acquired cannot be finally determined by the Tribunal constituted under section 14 of the Act. The jurisdiction of the civil court to decide the issues of title to the property acquired is not ousted.

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28. Coming to the matters in hand, as earlier mentioned, there is no dispute that five persons named above purchased the property of 180 acres of land. There was partition between them and in view of the partition, the respective revenue entries are taken. As per Vishwanath, in view of the partition, his father became owner of old survey No.24 new survey Nos.41 and 42. After the death of his father, he became the owner. He further deposed that his father cultivated the land till 1962-63 and, thereafter, due to the physical ailment, he had a paralytic attack and could not cultivate the same. In the written statement in the suit, Latari and Ramchandra pleaded that their father was owner and possessor of old survey No.17 and new survey Nos.41 and 42. Survey No.41 and 42 is now partitioned between them. In the written statement before the Special Tribunal, Latari and Ramchandra admitted the partition dated 9.6.1954 (Exhibit-14). As per their defence, old survey No.17 situated at Mouza Danoda, taluka Korpana was known as 'Khodang'. After the partition, it was numbered as survey No.24 and after consolidation, it became survey No.41 and 42 which is acquired. It was further contended that survey No.29 of

village Danoda was allotted to Karnu which was subsequently numbered as survey No.38. The original survey No.24 of mouza Danoda known as Karambodi (Pathar) was allotted to Karnu which was numbered as survey No.32. Thus, before the Special Tribunal, Latari and Ramchandra stated that the land namely Khodang is acquired and not Karambodi.

29. Vishwanath has adduced his oral evidence and placed reliance on Exhibit-14, the Partition Deed. Exhibit-14 is admitted by Latari and Ramchandra also. Thus, in view of the admitted position, it is crystal clear that five person purchased land admeasuring 180 acres and it was partitioned in view of Exhibit-14 that is on 9.6.1954. It was not a pleading of Ramchandra and Latari that the partition took place in the year 1963-64 or 1969-70. As per the said partition, it is mentioned as, "शेत नामे लव्हाली पुर्ण करंबोळीचे पठार पुर्ण करणु महादेव हरिजन रा. विरुर". Thus, it shows that the entire field known as Lavhali, Karambodi was allotted to the father of Vishwanath. Exhibit-15 is 7/12 extract which shows that the name of Karnu Mahadev is shown to be possessor and name of Zitra first time appearing as a cultivator. Thus, exhibit-15 shows the name of Karnu Mahadev in ownership or possessor column.

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Vishwanath has specifically stated that his father cultivated the land till 1962-63 and, thereafter, due to the physical ailment as he had a paralytic attack and could not cultivate the same. The name of Zitra is first time appearing in the year 1966-67 in respect of survey No.24 as tenant (kul) which continued till 1970-71. Thereafter, the name of Latari is appearing as kul and not as an owner or possessor. The name of Latari was continued till 1976-77 as a kul and, thereafter, as a possessor. As per the partition farad, Zitra was allotted land namely Khodang. There is no evidence that the land Khodang was having survey No.24. Thus, the contention of Latari and Zitra that the land owned by Karnuji was the Government Land is not substantiated by any documents. From Exhibit-16, Latari was shown to be the owner or possessor (bhogwatdar) in the year 1976-77. If the contention of Latari and Ramchandra is accepted that their father was the owner of survey No.24, in view of the partition, there was no possibility of appearing the name of their father in respect of survey No.24 as a kul. Exhibit-17 is the extract of mutation register which shows that at serial No.108 there is entry that the name of Karnu Mahadev is appearing as

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patteddar, but on local inspection, it reveals that survey No.24 has been cultivated by Zitru Rama. Hence, the said entry was approved. Before approval of the said entry, there is no evidence showing that any notice was given to Vishwanath before confirmation of the said entry. Thus, the documents on record show that the name of Karnu Mahadev was in the column of kabjedar. Exhibit-17 shows that Karnu Mahadev was the kabjedar of survey No.24.

30. As per the evidence of Zitru and Ramchandra, Khodang land was allotted to Zitru having survey No.17 which was converted into survey No.24 and, thereafter as survey Nos.41 and 42. Exhibit-26 shows survey No.24 having old survey No.17. It is the 7/12 extract of the year 1960 shown in the name of Karnu. Subsequently it was shown as survey Nos.41 and 42 in the name of Latari and Zitru. Thus, material scrutinized by the Special Tribunal shows that barren land Karambodi (Pathar) khata No.5 was having survey No.24 in the year 1960 and subsequently numbered as survey Nos.41 and 42. Out of which, survey No.41/1 was acquired by the WCL. Exhibit-30 shows that survey No.17 named as Khodang which was a barren land admeasuring 20.24 acres allotted to

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Zitra. As per Latari and Ramchandra, they were cultivating Khodang land, but it is shown as barren land. The partition deed Exhibit-14 shows that Zitra has received Khodang land which is survey No.17 and the said survey No.17 is in existence after Consolidation and Fragmentation also. Karnu has received Karambodi (Pathar) which is as per Exhibit-15 survey No.24. As per Exhibit-17, the name of Zitra was appearing as a cultivator since 1966-67 and, therefore, entry in the name of Zitra as a kabjedar was certified. This fact is to be appreciated in the light of the fact that as per evidence of Vishwanath, his father cultivated land till 1962-63 and, thereafter, he suffered from paralytic attack and could not cultivate the land. The name of Zitra is appearing as a tenant or kul since 1966-67. Karnu was survived by Vishwanath and two daughters. Vishwanath was serving in WCL. Thus, Zitra who was initially cultivating the land mutated his name in the kabjedar column.

31. Learned senior counsel Shri C.S.Kaptan submitted that the certificate was issued in the name of Zitra and Ramchandra after following due process under the provisions of the Maharashtra Prevention of Fragmentation and

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Consolidation. He referred the provisions of the said Act (Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act). Section 19 which deals with publication of draft scheme and amended draft scheme. Section 20 deals with confirmation of draft scheme or amended drafts scheme. Section 21 speaks about the enforcement of the scheme. As per Section 21, upon the confirmation of any scheme under Section 20, a notification stating that the scheme has been confirmed shall be published by the Settlement Commissioner in the official gazette and the scheme as confirmed shall be published in the prescribed manner in the village or villages concerned. In view of sub section (2), within the one year from the date of publication of the notification, the owners from whom compensation is recoverable under the scheme shall deposit the amount of compensation in the prescribed manner. Sub section (3) states that the consolidation officer shall, from the commencement of the agricultural year next following the date of publication of the notification in the official gazette under sub section (1) and in the prescribed manner, put the owners of the possession to which they are entitled under the scheme and for doing so may, in the

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prescribed manner, evict any person from any land which he is not entitled to occupy under the scheme. Sub section (4) states that if the Consolidation Officer is satisfied that any standing crops, trees, embankments or similar other improvements which were not taken into consideration at the time of determining the compensation payable by an owner of any holding under the scheme are found on such holding at the time of putting the owner in possession of such holding, or that any such standing crops, trees, embankments or similar other improvements which were taken into consideration at the time of determining the compensation payable by an owner of any holding have ceased to exist or are substantially damaged at the time of putting the owner in possession of such holding, he shall by order determine in the prescribed manner the additional compensation payable by the owner or, as the case may be, the reduction to be made in the compensation payable to the original owner of such holding. Where additional compensation is to be paid, it shall be deposited in the prescribed manner by the owner from whom it is recoverable, within one year from the date of order passed by the Consolidation Officer for determining the

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additional compensation. Sub section (5) states that if the owner from whom the compensation is recoverable fails to deposit it within the period specified in sub-section (2) or (4) or within such further period not exceeding one year as may be extended by the Consolidation Officer, it shall be recovered from him as an arrear of land revenue. Sub section (6) states that if an owner refuses to accept possession of the holding to which he is entitled under the scheme, his rights in such holding may be allotted in the prescribed manner by the Consolidation Officer to any other person who pays the value of the holding and in such case the value realized after deducting the expense (hereinafter called "the net value") shall be paid to the owner and any other person having an interest in the holding. Section 24 speaks about certificate of transfer. The consolidation officer shall grant to every owner to whom a holding has been allotted in pursuance of the scheme of consolidation and to every person to whom a right is allotted under sub section (6) of Section 21, a certificate in the prescribed form duly registered under the Indian Registration Act, to the effect that the holding has been transferred to him in pursuance of the scheme.

32. The Honourable Apex Court in the case of **Rajendra Singh vs. Government of NCT and others**, reported in **AIR 2016 SC 1011** held that opportunity of hearing is to be granted to the persons in possession of the land as per revenue records. The order of consolidation officer allowing the claim of the respondents without giving opportunity of hearing to the appellants not proper.

33. In the present case also, there is no evidence that any notice was issued to Vishwanath before confirming the entry in the names of Latari Zitra and Ramchandra Zitra.

34. The further submission of learned senior counsel Shri C.S.Kaptan is that there were long standing entries in the names of Latari and Ramchandra.

35. It is well settled that the entries cannot be treated as document of title. The entries have only presumptive value and do not confer any right *qua* the property in respect of which they made. The mutation entries do not convey or extinguish any title. At the most, they can be held to be relevant only for the purpose of collection of land revenue which is held by the Honourable Apex Court in **Balwant Singh**

and another vs. Daulat Singh, reported in **AIR 1997 SC 2719**.

The revenue record, in view of the settled law, is not a document of title. This settled position is reiterated by the Honourable Apex Court in the case of **State of A.P. and others vs. Star Bone Mill and Fertilizer Company**, reported in **(2013)9 SCC 319** wherein it is held that a revenue record is not a document of a title and that it merely raises a presumption in regard to possession.

36. Learned senior counsel Shri C.S.Kaptan further claimed that Latari and Ramchandra became owners by way of adverse possession. In support of his contention, he placed reliance on the decision of the Honourable Apex Court in the case of **State Of Rajasthan vs Harphool Singh (Dead), through his legal heirs**, cited *supra*.

37. The principle of adverse possession shows that the person who is claiming the adverse possession has to admit the ownership of another person and has to prove that he has obtained the possession continuously for twelve years which uninterrupted, open, hostile against the true owners. Adverse possession is a well recognized proposition in law that mere

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possession however long does not necessarily means that it is adverse to the true owners.

38. This court in the case of Banubi w/o Sheikh Ibrahim and Ors. Vs Sheikh Ahmad Sheikh Mahamood and others reported in 2008(5) ALL MR 624 held that mere entry of name in mutation register is not indication of adverse possession. In Vishwanath Bapurao Sable vs. Shalinibai Nagappa Sabale, reported in (2009)12 SCC 101 wherein also the Honourable Apex Court held that long possession by itself would not be sufficient to prove adverse possession.

39. Thus, the contention that as Ramchandra and Latari are in possession for long period of time and therefore they became owners is not sustainable.

40. Thus, the documentary evidence on record shows that karnuji was allottee of survey No.24, new survey Nos.41 and 42 known as Lavhali Karambodi (Pathar). The Special Tribunal arrived at the conclusion on the basis of the documentary evidence that it was Vishwanath who is the person "interested". It is vehemently submitted on behalf of the appellants that the tribunal has no jurisdiction to decide

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the title. Admittedly, the enquiry before the tribunal is to ascertain who is the person "interested" to claim the compensation. The wording of sub Section (5) of Section 14 of the said Act states that the tribunal, after hearing the dispute, make an award determining the amount of compensation which appears to it to be just, and specify the person or persons to whom the compensation shall be paid; and making the award the tribunal shall have regard to the circumstances of each case and to the foregoing provisions of this Act with respect to the manner in which the amount of compensation shall be determined insofar as the said provisions or any of them may be applicable.

41. Thus, Section 14(5) of the said Act indicates that in deciding the dispute and making an award the tribunal has to specify the person or the persons to whom the compensation has to be paid. The said Section specifies that the tribunal shall after hearing the dispute make an award determining the amount of compensation. Hearing the parties means granting opportunity to both the parties. The parties have to state the evidence on facts. The burden lies on both

the parties to substantiate their claim by producing documents and leading evidence.

42. The phrase 'hearing' is dealt in the case of Manohar Dass vs. Birandari Sheikhupurain, reported in AIR 1936 Lahore 280 in which it is observed that "the hearing of the suit is meant the hearing at which the Judge would be either taking evidence or hearing arguments or would have to consider the questions relating to the determination of the suit which would enable him finally to come to an adjudication upon it."

43. Admittedly, in the instant case, the evidence documentary and the oral led by Vishwanath as well as Latari and Ramchandra is considered by the Special Tribunal and held that Vishwanath is the person "interested" to receive the compensation. In view of Section 14(5) of the said Act, the tribunal has to conduct the enquiry as to who is "interested" person to claim compensation lawfully.

44. The dictionary meaning of an "enquiry" is an act of asking for information. Thus, the Special Tribunal arrived at the conclusion on the basis of the documentary evidence that

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Karnuji was allottee of survey No.24 new survey Nos.41 and 42 of mouza Danoda known as Lavhali, Karambodi (Pathar) and held that Vishwanath being his legal heir is the "interested" person. I am not impressed by the submissions that the Special Tribunal has decided the tittle. During hearing of the applications, the Special Tribunal held that Karnuji was allotted Karambodi (Pathar) as per the partition farad Exhibit-14 which is admitted by Latari and Ramchandra also. On the basis of the oral as well as the documentary evidence, Vishwanath established that Karnuji was allottee of the acquired land and after his death, he is the "interested" person to receive the compensation. Thus, the appeals filed by Latari and Ramchandra are devoid of merits.

45. Insofar as purchasers of survey Nos.41 and 42, who are appellants, are concerned, they have purchased the property after the Notification for acquisition dated 18.7.2009. The sale deeds are executed on 1.10.2009. In view of the settled law by the Honourable Apex Court cited *surpa*, sales made after the publication of the Notification under Section 4(1) are void sales. Any alienation of land after the

publication of the Notification under Section 4(1) does not bind the Government or the beneficiary under the acquisition.

46. With the aforesaid observations, I hold that the appellants/vendees in First Appeal Nos.568 to 575/2021 are not entitled for any relief as sale deeds are executed after the Notification under Section 4(1) of the said Act. The sale in their favour is void.

47. Insofar as the appellants in First Appeal Nos.296 to 303/2202 are concerned, I hold that Ramchandra and Latari failed to prove that they are "interested" person on the basis of the oral as well as the documentary evidence.

48. Thus, the appeals are devoid of merits and are liable to be dismissed and the same are dismissed with no order as to cost.

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!

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