

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 3816 OF 2014**

Om Vagzei Constructions, a Partnership Firm
having its Registered Office at A/1/2, Rambag
Colony, Navi Sadashiv Peth, Pune – 411 030
through its Partner Mr. Rajesh Haridas Kanabar,
Age : 56, Occupation : Business
Residing at 64-14, Ghorpadi, A-02, Ambience
Empyrean, Pune – 411 001

... Petitioner

Versus

- 1 The State of Maharashtra
Through Minister of Revenue
- 2 Ananda Dagadu Kamble
Age : Adult, Occupation : Agriculturist
Residing at S.No. 351, Village Bavdhan Budruk,
Taluka Mulshi, District Pune
- 3 Mirabai Suresh Alhat – Deceased
Age : Adult, Occupation : Agriculturist
Residing at Railway Quarters
Tadiwala Road, Pune
Amendment carried out as per order dated
08.08.2024
Mirabai Suresh Alhat
(Deceased through Legal Heirs)
- 3A Ganesh Suresh Alhat
Age : 45 years, Occupation : Service
- 3B Pratiksha Rajesh Alhat
Age : 27 years, Occupation : Service
- 3C Pradnya Rajesh Alhat
Age : 25 years, Occupation : Service
- 3D Pranali Rajesh Alhat
Age : 23 years, Occupation : Student
- 3E Prema Rajesh Alhat
Age : 21 years, Occupation : Student
- 3F Deva Rajesh Alhat
Age : 19 years, Occupation : Student

- All R/at : 347/13, Vishwajit Tarun Mandal,
Tadiwala Road, Pune - 411001
- 4 Rahul Ananda Kamble
- 5 Ashabai Shivaji Bhalerao
Nos. 4 & 5 both adults;
Occupation : Agriculturist
Both residing at S.No. 351, Village Bavdhan
Budruk
Taluka Mulshi, District Pune
- 6 Shantabai Maruti Jagtap
Age : Adult, Occupation : Agriculturist
Residing at Jagtap Chawl Thergaon
PCMC, Taluka Mulshi, District Pune
- 7 Kusum Maruti Shinde – Deceased
Age : Adult, Occupation : Agriculturist
Residing at Wakola Pipeline, Dhondiba Palaskar
Chawl, Santacruz Mumbai
Amendment carried out as per order dated
08.08.2024
Kusum Maruti Shinde
(Deceased through Legal Heir)
- 7A Bhanudas @ Sachin Maruti Shinde
Age : 44 years, Occupation : Business
R/at : Aditya Apartment, Room No. 502,
D-Wing, Behind Saint Antony Church, Wakola,
Santacruz East, Mumbai - 400055
- 8 Babu Sakharam Kamble – Deceased
Age : Adult, Occupation : Agriculturist
Residing at Sr. No. 28/1, Pimple Gurav, Pavan
Nagar, Shri Sant Abhang Colony, Mansi
Apartment,
3rd Floor, Opp. Ramkrishna Karaylya, Pune
Amendment carried out as per order dated
08.08.2024
Babu Sakharam Kamble
(Deceased through Legal Heir)
- 8A Rahul Ananda Kamble
Age : 38 Years, Occupation : Business
R/at : S.No. 351, Siddharth Nagar, Bavdhan Bk.
Taluka Mulshi, Dist. Pune – 411 021

- 9 Ramesh Balku Kamble
- 10 Chhaya Ramesh Kamble
- 11 Mahendra Ramesh Kamble
- 12 Nirmala Ramesh Kamble
- 13 Chandrakant Balku Kamble
- 14 Mina Chandrakant Kamble
- 15 Mayur Chandrakant Kamble
- 16 Avinash Chandrakant Kamble
- 17 Reshma Chandrakant Kamble
- 18 Suresh Balku Kamble
- 19 Vina Suresh Kamble
- 20 Ranjana Rajaram Gaikwad
Nos. 9 to 20 all adults;
Occupation : Agriculturists
All residing at S.No. 351, Village Bavdhan Budruk
Taluka Mulshi, District Pune
- 21 Laxmibai Abaji Jadhav - Deceased
Age : Adult; Occupation : Agriculturist
Residing at Siddharth Nagar, Pashan Pune
Amendment carried out as per order dated
08.08.2024
Laxmibai Abaji Jadhav
(Deceased through Legal Heirs)
- 21A Narayan Abaji Jadhav
Age : 68 years, Occupation : Service
- 21B Siddharth Abaji Jadhav
Age : 60 years, Occupation : Service
- 21C Uttam Abaji Jadhav
Age : 65 years, Occupation : Service
- 21D Anil Abaji Jadhav
Age : 56 years, Occupation : Service
Nos. 21A to D – R/at :
Flat No. 26, Kale Elite, Ghar No. 170,
Jadhav Wada Niham Mala Road,
Pashan Armament, Pune - 411021
- 21E Vandana Abaji Jadhav
@ Vandana Shashikant Khunte
Age : 50 years, Occupation : Housewife

- R/at: St. No. 5/62, Near Buddha Vihar,
Ganesh Nagar, Yerwada, Pune - 411006
- 21F Alka Abaji Jadhav
Age : 53 years, Occupation : Housewife,
R/at : Dangat Wasti, Vikas Nagar,
Dehu Road, Kivale, Pune - 411021
- 22 Manda Ashok Oval
Age : Adult, Occupation : Agriculturist
Residing at Rahatani, Taluka Haveli
District Pune
- 23 The Divisional Commissioner Revenue – Watan
Land
Pune Division, Vidhan Bhavan,
Pune – 411 001
- 24 The Collector, Pune
Collector Office, Pune
Pune – 411 001

**INTERIM APPLICATION NO. 12776 OF 2024
IN
WRIT PETITION NO. 3816 OF 2014**

- 1 Vinayak Dagadu Kamble
Age: Adult, Occupation – Farmer,
Residing at: Kambale Wasti,
Survey No. 351, Bavdhan,
Tal. Mulshi, Dist. Pune
- 2 Mangal Vinayak Kamble
Age: Adult, Occupation – Farmer,
Residing at: Kambale Wasti,
Survey No. 351, Bavdhan,
Tal. Mulshi, Dist. Pune
- 3 Pradnya Vinayak Kamble
Age: Adult, Occupation – Farmer,
Residing at: Kambale Wasti,
Survey No. 351, Bavdhan,
Tal. Mulshi, Dist. Pune
4. Shraddha Shrikant Lokhande
Age: Adult, Occupation – Farmer,
Residing at: Bavdhan,
Tal. Mulshi, Dist. Pune

5. Sumit Vinayak Kamble
Age: Adult, Occupation – Farmer,
Residing at: Kambale Wasti,
Survey No. 351, Bavdhan,
Tal. Mulshi, Dist. Pune
IN THE MATTER BETWEEN
.... Applicants
- 1 Om Vagzei Construction,
A partnership firm
Having registered office at,
4/1/2, Rambag Colony,
Navi Sadashiv Peth, Pune 411030
Through its Partner,
Mr. Rajesh Haridas Kanabar,
Age: 58 years, Occupation – Business,
Residing at: 64 – 14, Ghorpadi, A-02,
Ambience Empyrean, Pune 411001
.... Petitioner
- Versus
- 1 The State of Maharashtra
through Minster of Revenue
and Forest Department, Mantralaya,
Mumbai-400032.
- 2 Ananda Dagadu Kamble
Age: Adult, Occupation – Farmer
R/at: Sr. No. 351, Village Bavdhan Budruk,
Taluka Mulshi, District Pune.
- 3 Mirabai Suresh Alhat
Age: Adult, Occupation – Farmer
R/at: Railway Quarters,
Tadiwala Road Pune.
- 4 Rahul Ananda Kamble
Age: Adult, Occupation – Farmer
R/at: S. No.351, Village Bavdhan Budruk,
Taluka Mulshi, District Pune.
- 5 Ashabai Shivaji Bhalerao
Age: Adult, Occupation – Farmer,
R/at: S.No.351, Village Bavdhan Budruk,
Taluka Mulshi, District Pune.
- 6 Shantabai Maruti Jagtap
Age: Adult, Occupation – Farmer,
R/at: Jagtap Chawl, Thergaon, PCMC,
Taluka Mulshi, District Pune.

- 7 Kusum Maruti Shinde
Age: Adult, Occupation – Farmer,
R/at:Wakola Pipe Line,
Dhondiba Palaskar Chawl,
Santacruz, Mumbai.
- 8 Babu Sakharam Kamble
Age: Adult, Occupation – Farmer,
R/at: Sr. No.28/1, Pimple Gurvey,
Pavan Nagar Shri Sant Abhang Colony,
Mansi Apartment 8th Floor,
Opp. Ramkrishna Karaylya, Pune.
- 9 Ramesh Balku Kamble
- 10 Chhaya Ramesh Kamble
- 11 Mahendra Ramesh Kamble
- 12 Nirmala Ramesh Kamble
- 13 Chandrakant Balku Kamble
- 14 Mina Chandrakant Kamble
- 15 Mayur Chandrakant Kamble
- 16 Avinash Chandrakant Kamble
- 17 Reshma Chandrakant Kamble
- 18 Suresh Balku Kamble
- 19 Vina Suresh Kamble
- 20 Ranjana Rajaram Gaikwad
Respondent Nos.9 to 20
All Adults, Occupation – Farmer
All residing at Sr. No.351,
Village Bavdhan Budruk,
Taluka Mulshi, District Pune
- 21 Laxmibai Abaji Jadhav
Age: Adult, Occupation – Farmer
R/at: Siddharth Nagar, Pashan Pune
- 22 Manda Ashok Oval
Age: Adult, Occupation – Farmer
R/at: Rahatani, Taluka Haveli
District Pune
- 23 The Divisional Commissioner
Revenue – Watan Land Pune Division,
Vidhan Bhavan, Pune 411001
- 24 The Collector,

Pune Collector Officer,
Pune-411001

... Respondents

**INTERIM APPLICATION NO. 12773 OF 2024
IN
WRIT PETITION NO. 3816 OF 2014**

- 1 Raju Tatyaba Kamble
Age: 57 Years, Occupation – Farmer,
Residing at: Kambale Wasti,
Survey No.351, Bavdhan,
Tal. Mulshi, Dist. Pune.
- 2 Arun Raju Kamble
Age: 55 Years, Occupation – Farmer,
Residing at: Kambale Wasti,
Survey No.351, Bavdhan,
Tal. Mulshi, Dist. Pune.
- 3 Saurabh Raju Kamble
Age: 34 Years, Occupation – Farmer,
Residing at: Kambale Wasti,
Survey No.351, Bavdhan,
Tal. Mulshi, Dist. Pune.
- 4 Shubhangi Raju Kamble
Age: 30 Years, Occupation – Farmer,
Residing at: Bavdhan,
Tal. Mulshi, Dist. Pune.
- 5 Sunil Tatyaba Kamble
Age: 55 Years, Occupation – Farmer,
Residing at: Kambale Wasti,
Survey No.351, Bavdhan,
Tal. Mulshi, Dist. Pune.
- 6 Sunita Sunil Kamble
Age: 51 Years, Occupation – Farmer,
Residing at: Kambale Wasti,
Survey No.351, Bavdhan,
Tal. Mulshi, Dist. Pune.
- 7 Prashant Sunil Kamble
Age: 26 Years, Occupation – Farmer,
Residing at: Kambale Wasti,
Survey No.351, Bavdhan,
Tal. Mulshi, Dist. Pune.

8 Sukeszni Vikas Chavan
Age: Adult, Occupation – Farmer,
Residing at: Kambale Wasti,
Survey No.351, Bavdhan,
Tal. Mulshi, Dist. Pune.

9 Pranita Pramod Borathe
Age: Adult, Occupation – Farmer,
Residing at: Kambale Wasti,
Survey No.351, Bavdhan,
Tal. Mulshi, Dist. Pune.

.... Applicants

IN THE MATTER BETWEEN

1 Om Vagzei Construction,
A partnership firm
Having registered office at,
4/1/2, Rambag Colony,
Navi Sadashiv Peth, Pune 411030
Through its Partner,
Mr. Rajesh Haridas Kanabar,
Age: 58 years, Occupation – Business,
Residing at: 64 – 14, Ghorpadi, A-02,
Ambience Empyrean, Pune 411001

.... Petitioner

Versus

- 1 The State of Maharashtra
through Minster of Revenue
and Forest Department, Mantralaya,
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- 2 Ananda Dagadu Kamble
Age: Adult, Occupation – Farmer
R/at: Sr. No. 351, Village Bavdhan Budruk,
Taluka Mulshi, District Pune.
- 3 Mirabai Suresh Alhat
Age: Adult, Occupation – Farmer
R/at: Railway Quarters,
Tadiwala Road Pune.
- 4 Rahul Ananda Kamble
Age: Adult, Occupation – Farmer
R/at: S. No.351, Village Bavdhan Budruk,
Taluka Mulshi, District Pune.
- 5 Ashabai Shivaji Bhalerao
Age: Adult, Occupation – Farmer,
R/at: S.No.351, Village Bavdhan Budruk,

- Taluka Mulshi, District Pune.
- 6 Shantabai Maruti Jagtap
Age: Adult, Occupation – Farmer,
R/at: Jagtap Chawl, Thergaon, PCMC,
Taluka Mulshi, District Pune.
 - 7 Kusum Maruti Shinde
Age: Adult, Occupation – Farmer,
R/at:Wakola Pipe Line,
Dhondiba Palaskar Chawl,
Santacruz, Mumbai.
 - 8 Babu Sakharam Kamble
Age: Adult, Occupation – Farmer,
R/at: Sr. No.28/1, Pimple Gurvey,
Pavan Nagar Shri Sant Abhang Colony,
Mansi Apartment 8th Floor,
Opp. Ramkrishna Karaylya, Pune.
 - 9 Ramesh Balku Kamble
 - 10 Chhaya Ramesh Kamble
 - 11 Mahendra Ramesh Kamble
 - 12 Nirmala Ramesh Kamble
 - 13 Chandrakant Balku Kamble
 - 14 Mina Chandrakant Kamble
 - 15 Mayur Chandrakant Kamble
 - 16 Avinash Chandrakant Kamble
 - 17 Reshma Chandrakant Kamble
 - 18 Suresh Balku Kamble
 - 19 Vina Suresh Kamble
 - 20 Ranjana Rajaram Gaikwad
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 - 21 Laxmibai Abaji Jadhav
Age: Adult, Occupation – Farmer
R/at: Siddharth Nagar, Pashan Pune
 - 22 Manda Ashok Oval
Age: Adult, Occupation – Farmer
R/at: Rahatani, Taluka Haveli

- District Pune
- 23 The Divisional Commissioner
Revenue – Watan Land Pune Division,
Vidhan Bhavan, Pune 411001
- 24 The Collector,
Pune Collector Officer,
Pune-411001

.... Respondents

**INTERIM APPLICATION NO. 19961 OF 2022
IN
WRIT PETITION NO. 3816 OF 2014**

- 1 Karuna Vijay Kamble
Age: 36 years, Occ: Agriculture
- 2 Ajay Vijay Kamble
Age: 42 years, Occ: Agriculture
- 3 Swapnil Vijay Kamble
Age: 28 years, Occ: Agriculture
- 4 Abhijit Vijay Kamble
Age: 25 years, Occ: Agriculture
- 5 Shital Tushar Barathe
Age: 32 years, Occ. Agriculture
All R/o: Near Shivsena Bhavan,
Bavdhan Bk, Tal. Mulshi,
Dist. Pune
- IN THE MATTER BETWEEN

.... Applicants

.... Petitioner

- 1 The State of Maharashtra
through Minister of Revenue
and forest Dept. Mantralaya,
Mumbai – 400 032.
- 2 Ananda Dagadu Kamble
Age: adult; occupation; agriculturist
residing at S. No. 351, Village
Bavdhan Budruk, Taluka Mulshi,
District. Pune.
- 3 Mirabai Suresh Alhat
Age: adult; occupation; agriculturist
resiiding at Railway Quarters
Tadiwala Road Pune

- 4 Rahul Ananda Kamble
Age: Adult, Occupation – Agriculturist
R/at: S. No.351, Village Bavdhan Bk,
Taluka Mulshi, District Pune.
- 5 Ashabai Shivaji Bhalerao
Age: years, Occu. Agriculturist
R/o : S. No. 351, Vill. Bavdhan Bk.
- 6 Shantabai Maruti Jagtap
Age: adult; occupation: agriculturist
Residing at jagtap Chawl Thergaon
PCMC, Taluka Mulshi District Pune.
- 7 Kusum Maruti Shinde
age: adult; occupation: agriculturist
Residing at Wakola Pipe line
Dhondiba Palaskar Chawl
Santacruz Mumbai
- 8 Babu Sakharam Kamble
age: adult; occupation: agriculturist
residing at Sr, No.28/1 Pimple
Guray, Pavan Nagar Shri Sant
Abhang Colony, Mansi Apartment
8th floor, Opp. Ramkrishna
Karaylya, Pune
- 9 Ramesh Balku Kamble
- 10 Chhaya Ramesh Kamble
- 11 Mahendra Ramesh Kamble
- 12 Nirmala Ramesh Kamble
- 13 Chandrakant Blku Kamble
- 14 Mina Chandrakant Kamble
- 15 Mayur Chandrakant Kamble
- 16 Avinash Chandrakant Kamble
- 17 Reshma Chandrakant Kamble
- 18 Suresh Balku Kamble
- 19 Vina Suresh Kamble
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Respondent Nos.9 to 20
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- Taluka Mulshi, District Pune
- 21 Laxmibai Abaji Jadhav
Age: Adult, Occupation – agriculturist
R/at: Siddharth Nagar, Pashan Pune
- 22 Manda Ashok Oval
Age: Adult, Occupation – agriculturist
R/at: Rahatani, Taluka Haveli
District Pune
- 23 The Divisional Commissioner
Revenue – Watan Land Pune Division,
Vidhan Bhavan, Pune 411001
- 24 The Collector,
Pune Collector Officer,
Pune-411001
- Respondents

.....

Mr. Ashutosh Kumbhakoni, Senior Advocate a/w. Mr. Nikhil Wadikar i/b. Nandu Pawar, Advocate for the Petitioner.
Mr. Niranjan Kandade, Advocate for Respondent Nos. 2 to 8.
Mr. Pradip Zende, Advocate for Respondent Nos. 9 to 22.
Mr. P. G. Sawant, AGP for the State – Respondent Nos. 23 and 24.
Mr. Saurabh Patil a/w. Devanshi Shah & Aditya Shirke, Advocate for Applicants in IA/12776/2024, IA/12773/2024 & IA/19961/2022

CORAM : R. M. JOSHI, J.

DATED : 18th SEPTEMBER, 2024.

P.C. :

1. During the pendency of this writ petition petitioner and respondent Nos. 2 to 22 filed consent terms seeking disposal of the petition in terms of the consent terms. Since the parties hailed from District Pune, a direction was given to them to appear before the Court at Pune for the purpose of verification of the consent terms. Accordingly parties appeared before the 2nd Joint C.J.S.D., Pune.

2. Report submitted by learned Judge, indicates that all the parties before the learned Judge admitted to have read the consent terms. Learned Judge explained the consent terms to the parties who accepted to have voluntarily signed / executed the same. The report is marked as “X” for identification.

3. It is recorded in the consent terms (marked as “Y” for identification) that respondent Nos. 2 to 22 accept that the owners of the subject property have agreed to transfer the same by executing an agreement and other documents from time to time in favour of the petitioner. Permission was granted by order dated 31.08.2009 for transfer of the property to the petitioner in terms of the said transaction. Some of the respondents thereafter filed an application before the respondent Nos. 24 raising objection to the grant of permission for transfer. This objection was rejected by respondent No.24 against which Revision Application No. S-30/09/PK/395/L-4 was filed before the respondent No.4. This respondent allowed the revision application and remanded the matter back to respondent No.24 for afresh decision. Being aggrieved by this order dated 02.09.2013, present petition came to be filed. There was interim stay to the impugned order during pendency of the petition.

4. It is further contended in the consent terms that during the pendency of the petition parties mutually and voluntarily decided to

amicably settle the dispute between them relating to the subject property. Respondent Nos. 2 to 22 recorded no objection for setting aside the order passed in the revision application and sought confirmation of order passed by respondent No.24 dated 31.08.2009.

5. Learned Senior Advocate appearing on behalf of petitioner submits that the present petition has been filed under Article 227 of the Constitution of India challenging the order passed by Revisional Authority in favour of respondent No.2 to 22 and as such no objection could be raised thereto by any third party including applicants in I.A.Nos. 12776 of 2024, I.A.No. 12773 of 2024 and I.A.No. 19961 of 2022. It is submitted that these applicants were not party to the revision proceeding and it is always open for the revisionist before the respondent No.1 to record consent for setting aside the said order and for restoration of order passed by respondent No.24. It is his submission that having regard to the nature of proceeding, person who is not party to the original proceeding cannot be permitted to object disposal of the petition in terms of consent terms. It is his further submission that the applications filed by intervenors are not bonafide and that by suppressing material fact of execution of confirmation deed by them, and it can be gathered that applications are filed with malafide intention of extorting money.

6. Learned counsel for the proposed intervenors in interim applications

opposed the said submission by contending that the applicants have a right in the subject property and as such even if the respondent Nos.2 to 22 wants to record consent for setting aside order passed by the Revisional Authority, the same cannot be permitted having regard to the fact that the same would be adverse to the interest of applicants.

7. Since submissions were made on behalf of the petitioners that the applicants / intervenors had executed confirmation document, query was made to the learned counsel appearing on their behalf to confirm the said fact. He on instructions made statement that confirmation deed was executed. In so far as applicant Nos. 6, 7 and 8 in Interim Application (L) No. 26194 of 2014 are concerned, admittedly, these applicants had received consideration by cheque for the purpose of executing confirmation deed.

8. At the outset this Court wishes to deal with the intervention applications. Perusal of the applications do not indicate truthful disclosure of facts including execution of the confirmation deed by them in favour of the petitioners. Similarly, though now submission is sought to be made on their behalf that they did not know the document which they executed nor have received any consideration, undisputedly applicant Nos.6,7 and 8 in Interim Application (L) No.26194 of 2024 had received the consideration by cheque. Thus this is clear case of suppression of material facts. It is

also pertinent to note that the petition is pending since year 2014 and for last 10 years intervenors did not find it necessary to join themselves as a party. Pertinently at no point of time these applicants have ever raised objection in the proceedings between petitioner and other respondents. This Court therefore finds substance in the contention of the learned counsel for the petitioner that this is a case of abuse of process of Court with malafide intention of extorting money.

9. Since there is apparent suppression of material facts on the part of the applicants, intervention applications deserves to be dismissed with exemplary costs. These applications therefore stand dismissed with costs of Rs.25,000/- each. All applicants shall be jointly and severally liable for payment of the cost. The cost be paid within four weeks to Mahila Vikas Mandal, Colaba in Account No. 03820100002611, Bank of Baroda, Backbay Reclamation Branch, Mumbai-20, IFCS Code- BARB0BACKBA. The cost be paid within a period of two weeks. Needless to state that rejection of theses applications not to be construed as taking away any lawful right vested in these applicants.

10. Reverting back to the prayer made in petition for allowing petition in terms of consent term, is concerned, record indicates that there was permission granted by Competent Authority for transaction in question and the said order was challenged unsuccessfully. The order impugned in this

petition is not a decision on merit disturbing order passed by respondent No.24 but it is only order of remand. The rights of parties therefore are not decided by this order. In any case, the first authority has passed order of rejecting challenged by respondent Nos. 2 to 22, to the permission for transfer and therefore it is open to these respondents to waive their right to challenge this order.

11. Consequently, this Court finds no impediment in allowing petition in terms of consent terms. Petition therefore stands disposed of in terms of consent terms.

12. In view of disposal of the petition, pending applications if any, also disposed of.

(R. M. JOSHI, J.)

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KILAJE

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