

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5924 OF 2023

Baban Kalu Bhil And Another

VERSUS

Babulal Ananda Bhil

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Advocate for the Petitioners : Mr. Patil (Borse) Paresh B.

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CORAM : SIDDHESHWAR S. THOMBRE, J.

DATED : DECEMBER 10, 2025

PER COURT :

1. Heard Mr. Patil, learned counsel for the petitioners.
2. By way of present petition, the petitioners are challenging the order dated 19.03.2022 passed below Exhibit-39 by the learned Civil Judge, Junior Division, Bhadgaon in R.C.S. No.22 of 2018, whereby the application filed by defendant nos.2 and 4 under Order VII Rule 11(d) of the Civil Procedure Code was rejected on the ground that the suit is barred under the provisions of Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974.
3. The learned Trial Court considered the application and recorded the findings by observing in para 5 which reads as under :

“5] It is second contention of defendants that the civil court has no jurisdiction to try the present suit as there is express bar under section 10 of Restoration Act 1974, and the Collector is empowered to settle, decide and deal with the matter regarding lands belonging to tribals. On perusal of Section 10 of the Restoration Act, 1974, it appears that there is bar to Civil Court

to deal with title regarding tribal land. But in the present suit this court is not dealing with question, restoration or transfer of tribal land. Hence, this court has jurisdiction to deal with present suit on basis of powers conferred on it under Section 9 of the Civil Procedure Code(in short CPC). As there is clear manadate in section 9 CPC that civil court has jurisdiction to try all suits of civil nature except the suit of which their cognizance is either expressly or impliedly barred. Hence, I do not find that there is express bar as I am not dealing with the question of restoration of the tribal land. Likewise, there is no implied bar of provisions Maharashtra Land Revenue Code or Restoration Act, 1974, to try this suit, therefore this court has jurisdiction to try the present suit. So invoking sec 9 of CPC the civil court can decide whether the plaintiff is entitled to injunction or not. From the above discussion I hold that this court has jurisdiction to try the present suit.”

4. Considering the reasoning recorded by the learned Trial Court, I do not find any reason to interfere with the order dated 19.03.2022 passed below Exhibit-13 by the learned Civil Judge, Junion Division, Bhadgaon in R.C.S. No.22 of 2018 under Article 227 of the Constitution of India.

5. Writ Petition is dismissed. No order as to cost.

(SIDDHESHWAR S. THOMBRE, J.)