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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 9126 OF 2025
IN
CONTEMPT PETITION NO.203 OF 2017

Mohammed Fahim Shaikh Abdul Hakim

APPLICANT

VERSUS

Iqbal Khan Sattar Khan and Another

RESPONDENTS

.....
Mr. S. V. Suryawanshi, Advocate for the Applicant
Ms. N.B. Kamble, AGP for Respondent - State
Mr. M. C. Syed, Advocate for Respondent No.1
.....

WITH

CIVIL APPLICATION NO. 6333 OF 2025
IN
CONTEMPT PETITION NO.203 OF 2017

Sunil Babanrao Deshmukh and Others

APPLICANTS

VERSUS

The Executive Magistrate @ Tahsildar,
Chalisgaon and Others

RESPONDENTS

.....
Mr. A. V. Deshmukh h/f Mr. I. S. Thorat, Advocate for Applicants
Mr. Majid Shaikh, Advocate for Respondent No.2
Ms. N. B. Kamble, AGP for Respondent - State
Mr. M. C. Syed, Advocate for Respondents No.3 and 4
.....

WITH

CIVIL APPLICATION NO. 7012 OF 2025
IN
CIVIL APPLICATION NO. 6333 OF 2025

Vasim Rajjak Shaikh and Others

APPLICANTS

VERSUS

Mohammad Fahim Shaikh Abdul Hakim & Others RESPONDENTS

.....

Mr. A. N. Nagargoje h/f Mr. D. M. Mane, Advocate for Applicants

Ms. N. B. Kamble, AGP for Respondent - State

Mr. M. S. Shaikh, Advocate for Respondent No.1

.....

**[CORAM : NITIN B. SURYAWANSHI, &
VAISHALI PATIL-JADHAV, J. J.]**

DATE : 12th DECEMBER, 2025

ORDER :

1. For recovery of arrears of salary of the Applicant / Original Petitioner - Mohammed Fahim Shaikh Abdul Hakim, of Rs.23,79,873/- Trust property was put for auction by the Tahsildar. Persons claiming to be occupiers / tenants of the said property deposited an amount of Rs.30 lakh in this Court.

2. Civil Application No. 9126 of 2025 is filed by the Applicant – original Petitioner for withdrawal of an amount of Rs.23,79,873/- along with interest accrued thereon.

3. Civil Application No. 6333 of 2025 is filed by the occupiers / tenants of the property put for auction, who have deposited Rs.30 lakh in this Court. By this Application, they seek

setting aside auction process / sale notice dated 28th May, 2025, issued by Tahsildar, Chalisgaon.

4. By Civil Application No. 7012 of 2025, Applicants seek permission to intervene in Civil Application No. 6333 of 2025, contending that, they are interested persons in the Trust namely A. A. Shah Education Society, Chalisgaon and they claim that the property, which was put to auction, is illegally given on lease to the Applicants in Civil Application No. 6333 of 2025.

5. Heard learned Advocate for the Applicant – original Petitioner, learned Advocate for the management, learned Advocate for the occupiers of the property put to auction, learned Advocate for members, who have filed Civil Application for intervention.

6. Learned Advocate for the Management has vehemently opposed the Civil Application by submitting that in view of the ratio laid down in "*Union of India V/s Tarnem Singh*" 2008 (8) **SCC 648** the Applicant is entitled for arrears of only preceding three years and not the entire amount.

Admittedly, Education Officer (Secondary), Zilla Parishad, Jalgaon has given calculations of arrears of salary of the Applicant to which he is entitled to. Accordingly, an amount of

Rs.30 lakh is deposited in this Court by the occupiers / tenants. Direction given by this Court to disburse arrears of salary of the Applicant / original Petitioner is not challenged by the management. Therefore, the Applicant / original Petitioner is entitled for an amount of Rs.23,79,873/- towards unpaid salary. Hence, the Civil Application No. 9126 of 2025 filed by original Petitioner deserves to be allowed.

7. As the property was put for auction for recovery of arrears of salary of the Applicant – original Petitioner and that amount is deposited by the occupants / tenants of the property, there is no need to auction the said property. Therefore, Civil Application No. 6333 of 2025 filed by the occupiers / tenants deserves to be allowed.

8. So far as Application for intervention is concerned, in the peculiar circumstances of the case, we are not inclined to enter into the disputed questions of fact. The intervenors are entitled to adopt appropriate legal remedy. In the result, following order:

ORDER

I. Civil Application No. 9126 of 2025 is allowed on following terms.

a. The Applicant is permitted to withdraw total amount

of Rs.23,79,873/- out of the amount of Rs.30 lakh deposited in this Court, along with proportionate interest accrued thereon.

- b. Out of Rs.23,79,873/- the Applicant is permitted to withdraw 50% amount on furnishing usual undertaking to the satisfaction of the learned Registrar (Judicial) and remaining 50% on furnishing solvent surety / security to the satisfaction of learned Registrar (Judicial).
- c. This security shall be continued till decision in Writ Petition No. 3183 of 2020, which is filed by the Management.

II. Civil Application No. 6333 of 2025 is allowed in following terms.

- a. Impugned sale notice / auction notice dated 28th May, 2025 issued by Respondent No. 1- Tahsildar, Chalisgaon as regards property bearing City Survey No. 2403 situated at Chalisgaon is hereby quashed and set aside.
- b. After deducting an amount of Rs.23,79,873/- payable to the Applicant in Civil Application No.9126 of 2025, the balance amount, along with proportionate interest accrued thereon, be paid to the Applicants.

III. Civil Application No.7012 of 2025 is dismissed with liberty to the Applicants / intervenors to adopt appropriate legal remedy.

[VAISHALI PATIL-JADHAV]
JUDGE

[NITIN B. SURYAWANSHI]
JUDGE