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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1811 OF 2019

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Suvarna Appasaheb Kshirsagar
Aged 35 years, Occu.: Household,
R/at Kopargaon, Taluka Kopargaon
District Ahmednagar,
Now r/at Vita, Taluka Khanapur,
District Sangli & Others

... Petitioners

V/s.

The State of Maharashtra,
through Principal Secretary,
Department of Revenue, having
office at Mantralaya, Mumbai 400 032
& Others

... Respondents

Mr. Sunil G. Karandikar Amicus Curie

Mr. Vijay Killedar for the petitioners.

Mrs. M.S. Srivastava, AGP for respondent Nos.1 & 2-
State.

Mr. Nikhil N. Wadikar with Mr. Kastur Patil, Mr.
Rushikesh Desai and Ms. Samata More i/by Mr. Nandu
Pawar for respondent Nos.12 to 15, 24, 53, 55 to 58,
61, 63, 65 to 69.

CORAM : AMIT BORKAR, J.

RESERVED ON : FEBRUARY 28, 2025

PRONOUNCED ON : APRIL 15, 2025

JUDGMENT:

1. By the present Writ Petition instituted under Article 226 of the Constitution of India, the petitioners have invoked the extraordinary writ jurisdiction of this Court, seeking to impugn the judgment and order dated 7th March 2013, passed by respondent No.1 in Application No.DEV-1012/PK.130/L4, whereby respondent No.1 has withdrawn the exemption earlier granted from payment of land revenue in respect of the land in question, and has withheld the privilege of exemption from payment of land revenue as contemplated under Clause 66 of the Joglekar Law Manual.
2. The facts and circumstances giving rise to the filing of the present Writ Petition, briefly stated, are as under:

The land bearing Revision Survey No.1052/2, situated at Village Vita, Taluka Khanapur, District Sangli, admeasuring 14 Acres and 28 Gunthas (hereinafter referred to as "the said land") belonged to a religious institution, namely, Mhaswad Sidha Devasthan. The said land was classified as Devasthan Inam Class III land in the Land Alienation Register prepared by the Inam Commission, and the corresponding Sanad number of such Inam grant is recorded as 8673. The petitioners have placed on record a copy of the Inam Patrak obtained from the Pune Archives Office, which describes the said land as Devasthan Inam land. Furthermore, the Dumala Land Register (Gaon Namuna No.3), maintained in the village Chawdi by the Talathi under the supervision of the Tahsildar, reflects that the said land is recorded as Devasthan Inam land. The said register further evidences the

existence of the Deity (Devasthan Institution), the continuance of religious rites and rituals associated therewith, and the utilization of profits and income generated from the land for the benefit of the Deity.

3. According to the petitioners, their predecessor-in-title, one Ganapati Vithu Gurav, was a priest (Gurav) who was performing the religious rituals and managing the affairs of the said temple. It is the case of the petitioners that the land bearing Revision Survey No.1052 was part and parcel of the Inam land pertaining to the said Deity and temple. In or about the year 1930, the name of Dadu Rama Gurav came to be recorded in the revenue records in respect of the said land, and subsequently, the name of Govind Dadu Gurav was recorded. The Land Alienation Register, the Dumala Register, Mutation Entry No.4669, and the Record of Rights pertaining to the said land, as well as the Inam Patrak, consistently describe the said land as Class III Devasthan Inam land.

4. On or about 11th September 2012, respondent No.3 preferred an application before respondent No.1, inter alia, contending that the entry in the record of rights, describing the said land as Class III Devasthan Inam land, was erroneous, and consequently sought deletion of the said description from the revenue records. The petitioners submit that the said application filed by respondent No.3 contained no averment whatsoever to the effect that the Deity of Mhaswadsiddh (Devasthan) is not in existence, or that the religious rites and rituals associated with the Deity are not being performed, or that the profits and income

derived from the said land are not being utilized for the benefit of the Deity.

5. On 31st October 2012, respondent No.2, through the Sub-Divisional Officer, Khanapur, Taluka Vita, District Sangli, submitted a report, inter alia, pointing out that the said land has been shown as Devasthan Inam land since the year 1930, and that the entries in the Mutation Register, particularly Mutation Entry Nos.4669 and 5694, as well as the 7/12 extracts from 1953-1954 onwards, and the Inam Patrak, support and corroborate the said position. The Sub-Divisional Officer, therefore, recommended rejection of the application filed by respondent No.3.

6. Respondent No.1, after granting opportunity of hearing to both sides, proceeded to allow the application filed by respondent No.3 and passed an order canceling the exemption earlier granted to the said land from payment of land revenue. Respondent No.1 held that the said land was not Devasthan Inam land, and that the income derived from the said land, as also the sale proceeds thereof, were not required to be appropriated for the benefit of the Deity. Aggrieved by the said judgment and order, the petitioners have instituted the present Writ Petition challenging the same.

7. At the request of this Court, Mr. S.G. Karandikar, learned Advocate, graciously consented to assist the Court on the issues arising for consideration in the present matter and made his valuable submissions.

8. Inviting the attention of this Court to the alleged source of power referred to in the impugned order, the learned Advocate

submitted that Clause 66 of the Joglekar Law Manual cannot be regarded as a source of power for the action taken. He submitted that Clause 66 merely provides for the resumption of Inam lands by the levy of full assessment from the existing holder in cases where the profits of the Inam land have been diverted by the concerned institution, or where the institution itself has ceased to exist. He further submitted that the Joglekar Law Manual cannot be construed as a law in the eye of law, as it neither partakes the character of a statute enacted by the competent Legislature, nor does it constitute executive instructions issued by the Government of India in exercise of power under Article 162 of the Constitution of India, nor has it been authenticated by the Governor under Article 166 of the Constitution of India. The learned Advocate further submitted that Section 8(3) of the Exemptions from Land Revenue (No.1) Act, 1863 (hereinafter referred to as "the 1863 Act") is only a declaratory and clarificatory provision which states that lands held by religious or charitable institutions, which are wholly or partially exempted from payment of land revenue, shall not be transferable from such institutions either by assignment, sale (whether such sale is judicial, public, or private), gift, or otherwise, and that no nazrana shall be leviable on account of such lands.

9. Adverting to the prayer made by respondent No.3 in the application dated 11th September 2012 filed before respondent No.1, the learned Advocate submitted that the prayer was to delete the entry recording the land as Devasthan Inam Class III land. He submitted that no such power is vested either with the State

Government, the Collector, or any other authority under the Maharashtra Land Revenue Code, 1966. The recitals in the said application proceed on the premise that there was an exemption from payment of land revenue, and consequently, the restriction against alienation contained in Section 8(3) of the 1863 Act was applicable. He submitted that the records indicate that the land continued to stand in the name of the Devasthan. The learned Advocate further pointed out that the report submitted by the Sub-Divisional Officer on 31st October 2012 confirmed that the entry of Devasthan Inam land had been consistently reflected in the revenue record since 1963, and the said report was also supported by other documents such as the Inam Patrak and the relevant Mutation Entries.

10. The learned Advocate further invited the attention of this Court to the scrutiny sheet prepared by the Tahsildar, Khanapur, and the Circle Officer, which categorically states that the land enjoyed full exemption from payment of land revenue. He placed reliance on the Government Resolution dated 31st May 1996 issued by the Revenue Department for the purpose of governance, maintenance, and regulation of Devasthan Inam lands. The said Government Resolution records that in several cases, Devasthan lands are not in possession of the Devasthans or the Inamdars; that Devasthans are not being properly managed; that religious functions are not being appropriately held; and that such lands are being alienated after obtaining permission from the Charity Commissioner. In view of the aforesaid concerns, the Government directed that the Revenue Officers shall visit the Devasthans and

take necessary steps to ensure proper maintenance and management of Devasthan lands and to prevent unauthorized transfers without requisite permission.

11. The learned Advocate also drew attention to the Government Resolution dated 30th July 2010, whereby the Revenue Officers were directed to undertake a comprehensive survey of Devasthan Inam lands situated within their respective districts and to submit detailed reports regarding the present status of such lands, including instances of transfer or encroachment. Further, the learned Advocate referred to the Government Resolution dated 6th November 2019, wherein the Revenue Authorities were directed to initiate appropriate action against illegal transfers of Devasthan Inam lands and to take possession of such lands wherever alienation has been effected in contravention of the provisions of law.

12. The learned Advocate submitted that the filing of applications such as the one filed by respondent No.3 before the State Government is a modus operandi adopted by persons who have no title over Devasthan lands, with the ulterior objective of seeking deletion of the Devasthan entry and exemption from payment of land revenue. The ultimate aim behind such maneuvers, according to the learned Advocate, is to lift the embargo on transferability imposed by Section 8(3) and (4) of the 1863 Act. He further submitted that the repeal and saving clauses under the Maharashtra Land Revenue Code, 1966 clearly indicate that the provisions of the 1863 Act have not been repealed and continue to remain in force. He submitted that the Joglekar Law

Manual is not saved by any statute, and being a mere commentary, it does not possess the force of law. The learned Advocate emphasized that the object of the 1862 Act was to confirm the title of the deity and render Devasthan Inam lands inalienable. This salutary object cannot be permitted to be defeated by resorting to impermissible methods which are not sanctioned by any statutory provision. He therefore submitted that such *modus operandi* adopted by persons for unauthorized sale of Devasthan Inam lands to third parties, despite having no ownership rights, needs to be strongly deprecated.

13. Per contra, Mr. Wadikar learned Advocate appearing for the contesting respondents vehemently opposed the submissions advanced on behalf of the petitioners and supported the impugned order. The learned Advocate submitted that the impugned order has been passed after considering the legal opinion tendered by the Law and Judiciary Department. Adverting to paragraph 2 of the said legal opinion, the learned Advocate submitted that where the land is not yielding adequate income for the upkeep of the institution, it would be permissible for an interested person to apply for resumption of the land by levying full land revenue assessment, and therefore, it would be legally permissible to delete the entry recording the land as Devasthan Inam Class III land.

14. The learned Advocate further submitted that the effect and consequence of the impugned order is limited only to the deletion of the entry recording the land as Devasthan Inam Class III land, and that the impugned order does not, by itself, confer any permission or sanction for the sale or alienation of the said land.

He submitted that the apprehension expressed by the petitioners that the land would be alienated or sold pursuant to the impugned order is therefore misplaced and unwarranted. Drawing the attention of this Court to the provisions of the Maharashtra Land Revenue Code, 1966, the learned Advocate submitted that the power to transfer necessarily includes the ancillary power to recall or modify entries in the revenue record. He submitted that the revenue entries are not documents of title but are maintained for fiscal purposes, and the authorities competent to record such entries are equally empowered to correct or recall such entries where warranted by the facts and circumstances of the case.

15. The learned Advocate further submitted that the Alienation Register pertaining to the said land records the name of one Subhana Gurav as Manager, and therefore, it cannot be contended that the land was exclusively dedicated to the Devasthan without any managerial control. He submitted that the entries in the revenue record do not conclusively establish title and, therefore, deletion of an incorrect or outdated entry cannot by itself be regarded as illegal. He emphasized that since the impugned order does not authorize the sale or alienation of the property and merely corrects the revenue record to reflect the current factual position, no case for interference with the impugned order is made out. He therefore prayed that the Writ Petition deserves to be dismissed.

16. Rival contentions, as advanced by the respective parties, now fall for the determination of this Court.

17. To properly decide the issue raised in this case, it is important to first understand what Inam lands are. During British rule, especially in the old Bombay Province, the British Government examined different types of land grants through what was called the Inam Commission. This Commission grouped such lands mainly into two types: First, lands that were directly granted to temple deities or religious institutions like temples and mathas. These were called Devasthan Inams. In such cases, the land belonged to the temple or the deity, and it was managed by a manager, but the manager did not own the land personally. Second, lands that were given to individuals like priests, pujaris, or temple servants on the condition that they perform certain religious or charitable duties. These were called personal inams with service conditions. In many such grants, it was clearly written that the land was given to a person and his family, even though he had to perform some religious service. In such cases, the law treated these grants as personal inams, and not as temple property. That means the individual had ownership rights, although his holding was subject to a religious duty. Therefore, the law clearly recognises the difference between Devasthan Inams and personal service inams. Devasthan Inams are treated as temple or deity-owned property, while personal inams, even if related to religious services, give personal rights to the person holding them.

18. After India became independent, the Government introduced major land reforms to remove old feudal systems and ensure fair distribution of land. As part of these reforms, the State of Bombay (now Maharashtra) passed several laws to cancel different types of

inam (grant) tenures. One such law was the Maharashtra Personal Inams Abolition Act, 1953 (Bombay Act No. XLII of 1953). This law was brought in specifically to abolish personal inams, which were lands given to individuals. However, the 1953 Act very clearly excluded religious and charitable inams, like Devasthan Inams, from its operation. Under Section 4 of this Act, all personal inam lands became liable to pay full land revenue like any other private land. But Devasthan Inam lands, which were meant for religious or charitable use, were not covered by this provision. That means temple lands were not treated like personal inams and continued to enjoy special protection. As per this 1953 Act, people who were holding personal inams became official occupants of those lands and got full ownership rights. But since Devasthan Inams were not abolished under this law, such lands remained as property of the temple or religious institution. They continued to be exempt from paying land revenue and could not be sold or transferred unless allowed under specific law. It is important to note that even after 1953, no law was passed to abolish Devasthan Inams in the State of Bombay or Maharashtra. Because of this, the earlier law known as the Exemptions from Land Revenue (No.1) Act, 1863 continues to apply to such temple lands. This legal continuity shows that the Government always intended to protect religious lands and endowments. The law treats Devasthan Inam lands not as personal or private property, but as property held for religious or charitable purposes. Such lands, therefore, are given the highest legal protection so that they remain dedicated to the cause for which they were originally gifted that is, for worship,

religious service, and the welfare of the community.

19. Inams, that is, land grants in the State of Maharashtra, can generally be divided into the following broad categories:

(i) Personal or "Jaat" Inams (Class I): These were lands granted personally to individuals. Some of these grants were given as a form of compensation. The person who got the land could pass it on to his children, and he could also sell or transfer it, provided he paid land revenue to the Government. However, after the Maharashtra Personal Inams Abolition Act, 1953 (Bombay Act No. XLII of 1953) was passed, these personal inams were abolished. The people who were holding such lands were treated as regular occupants under the Maharashtra Land Revenue Code, 1966, just like any other landholder.

(ii) Political Inams (Class I): This category includes land grants given by the State to nobles, Sardars, and officers for performing civil or military duties, or for maintaining their personal dignity. These grants included Saranjams and Jahagirs. Some of these grants were protected under treaties made between Mughal emperors and the British Government, while others were settled by the Inam Commission. Normally, political inams could not be divided or sold. They passed on to the eldest son in the family, while the younger members were only entitled to maintenance. However, by the Bombay Saranjams, Jahagirs, and Other Inams of Political Nature Resumption Rules, 1952, political

inams were abolished.

(iii) Service Inams (Classes IV, V, and VI): These were land grants or rights to collect cash or fees, given in return for performing certain services for the Government or the village community. Class IV included grants given to district officers like Desais, Deshmukhs, and Deshpandes, who helped the Peshwa Government in collecting revenue. Class V included grants to important village officers like Patils and Kulkarnis, who worked closely with the Government at the village level and were paid in land or cash. Class VI included grants to village service providers like Hajams (barbers), Kumbhars (potters), Lohars (blacksmiths), Sutars (carpenters), and Mochis (cobblers), who served the village community.

(iv) Devasthan Inams (Class III): This category covers lands given to religious institutions like temples, mosques, and other similar places of worship. Such grants were made forever (in perpetuity), and the land revenue on these lands was fixed and could not be changed. Normally, these lands could not be sold or divided. The rules about who would succeed to manage these lands were decided by the original grant and the customs and traditions of the temple or religious institution. The person managing a Devasthan Inam often called a Vahiwardar looks after the land as a trustee for the religious institution. He is not the personal owner of the land. Devasthan Inams enjoy special protection under Section 8(3) of the Exemptions from Land Revenue (No.1) Act, 1863. This law clearly says that lands given to religious

or charitable institutions, and exempted from paying full land revenue, cannot be transferred by sale, gift, or any other means. It is important to note that this 1863 law has not been repealed or cancelled. It continues to be fully in force even today. Thus, Devasthan Inam lands remain protected under the law and must continue to be used for religious and charitable purposes only.

20. The term Devasthan Inam simply means "temple grants." It refers to lands which, long ago, were specially given for religious or charitable work for example, for taking care of temple gods, running temples, or carrying out religious ceremonies. Normally, no land revenue (tax) had to be paid, or only a small amount had to be paid on these lands. According to Hindu law, a temple deity (god or goddess) is treated like a legal person who can own property. When land is given for a deity, it is not owned by any individual person. It is held on behalf of the deity by a Manager, who is usually called a Vahivatdar or Shebait. However, this Manager is only there to look after the land; he does not become the owner personally. His duty is only to manage the property properly for the deity and for the religious purposes for which the land was given. Unless there is a very clear and special grant that gives personal rights to any individual, the ownership of Devasthan lands always stays with the deity or the temple. In short, temple lands belong to the religious institution and not to the person managing them.

21. In Maharashtra, Devasthan Inam lands which are classified as Class III lands are governed by a legal principle called *res extra*

commercium. This Latin term simply means "things which are outside the market." Under this principle, properties given for religious, charitable, or public purposes are not treated like normal property. They cannot be freely bought, sold, gifted, mortgaged, or transferred like private property. They can only be transferred if there is a special law allowing it. The main reason for treating Devasthan Inam lands like this is to make sure that temple lands and religious properties remain protected and continue to be used for religious worship and charitable work. It stops people from misusing or selling these lands for private profit. The special protection given to Devasthan lands ensures that they are preserved for the public good and for the purposes for which they were originally gifted. It helps maintain the holiness of these lands and ensures that religious worship and service to the community continue without any disturbance. Thus, by placing restrictions on selling or transferring Devasthan lands, the law protects religious institutions from losing their properties due to unauthorized deals or misuse.

22. As explained above, Devasthan Inam lands were formally recorded under the Survey Settlement Act, 1863 during the British rule. The word "Inam" itself means "gift" or "grant." Lands under the Inam system were technically called "alienated lands," meaning that the Government had given up its right to collect rent or land revenue from these lands, either fully or partly. In the case of Devasthan Inams (Class III), the lands were given to temples, mosques, and other religious bodies. These grants were meant to last forever. Once the land revenue (tax) was fixed, it was not

supposed to change. Normally, these lands could not be sold or divided among heirs. The rules of inheritance or management of these lands were based on the customs and traditions of the particular temple or religious body. Whoever was managing the land at any time was expected to act only as a manager that is, to manage the land honestly and properly for the benefit of the religious institution. Because of this special nature of Devasthan Inams, they were given strong legal protection. This protection prevents anyone from illegally transferring, selling, or misusing such lands. It ensures that religious worship, charitable activities, and the original purpose for which the land was granted, continue without any interruption.

Ownership rights of Deity v. Vahivatdar in Devasthan Inam lands:

23. A Constitution Bench of the Hon'ble Supreme Court had a occasion to explain the rights of a Shebait (temple manager) and the nature of temple property (debutter property) in the case of *Angurbala Mullick vs. Debabrata Mullick*, reported in AIR 1951 SC 293. In that case, the main issue was a simple but important one whether after the death of a temple founder his widow could become the Shebait of the temple deity either alone or along with someone else. While deciding this question, the Supreme Court gave important explanations about how ownership of temple property is treated under Hindu law. The Court made it clear that the relationship between a Shebait and temple property is not like the relationship between a trustee and trust property under English law. In English law, the trustee becomes the legal owner of the property and holds it for the benefit of someone else. But

under Hindu law, when land or property is dedicated to a deity, the full ownership directly goes to the deity itself because a deity is treated as a legal person (juristic entity). The Shebait or Mahant (manager) is not the owner. He is only a manager who looks after the property on behalf of the deity. However, the Supreme Court also said that being a Shebait is not just holding a religious office. A Shebait not only performs religious duties but also sometimes enjoys a small share of the benefits (usufruct) from the temple property. This benefit can come either because the original grant allowed it or because of old customs and traditions. Thus, a Shebait has certain rights of enjoyment but does not become the owner of the property. The ownership always stays with the deity.

24. Based on the above legal principles, the position of a Vahiwardar (manager) or Pujari (priest) in respect of temple lands can be summarized as follows:

- (i) A Vahiwardar acts only as a manager who performs religious duties and looks after the temple land and property on behalf of the deity.
- (ii) The Vahiwardar or Pujari does not get any personal ownership rights over the Devasthan (temple) property.
- (iii) In the Government land records (like 7/12 extract), only the name of the deity should be shown as the owner of the land. The name of the Vahiwardar or Pujari may be written only in the remarks column, to show that they are managing the property.

(iv) Although the Vahiwatdar has the right to manage the property, this right is only for the benefit of the deity.

(v) A Vahiwatdar or manager of Devasthan Inam land can never claim personal ownership over temple lands. Nor can they ask for the removal of the status of the land as temple property.

State Government Powers for Exemption under Section 8(3) of the Exemptions from Land Revenue Act, 1863

25. The Exemptions from Land Revenue (No.1) Act, 1863 (Bombay Act No. II of 1863) was brought into force mainly to settle disputes about whether some lands had to pay land revenue to the Government or were exempt. It also laid down clear rules about how lands that were either fully or partly exempt from land revenue should be transferred or inherited in certain parts of the old Bombay Presidency where an earlier law, the Act XI of 1852, used to apply. The 1863 Act was mainly passed to confirm and formally settle the rights over such religious and charitable lands. Section 8, Clause 1 said that lands already recognised as permanently exempt would continue to be exempt. Section 8, Clause 2 said that even lands whose status had not been formally decided could be given exemption by charging a small amount (one-fourth of the normal land tax). Thus, the Government's role was mostly to confirm and recognize the status of inam lands and guarantee their protection.

26. Section 1, Clause 1 of this 1863 Act clearly gave powers to the State Government. It said that when people who were holding

lands without paying land revenue (or paying less) agreed to certain terms and conditions without insisting on proving their old rights formally, then, the Government could allow them to continue holding such lands forever (that is, in perpetuity) on the terms and conditions mentioned in the Act. In short, the State Government was allowed to formally approve and guarantee the exemption from land revenue for such lands once the landholders agreed. From a plain reading, it becomes clear that the State Government had three main powers: To officially approve exemption from land revenue, To promise that this exemption would continue forever (perpetuity), To set certain terms and conditions under which the exemption would apply. Further, Section 9 of the Act allowed the State Government to pass on its powers to lower officers, who could act on its behalf in deciding exemption-related matters. Section 13 made the State Government itself the final authority to hear appeals against decisions made by such officers. Thus, it is clear that even though some work was done by lower officers, the State Government always kept the final supervisory control under the scheme of this law.

27. Once the Government officially recognized a land as exempt, then Section 8(3) automatically came into play — and the ban on sale or transfer became absolute. If the manager of a religious institution disagreed with the terms of exemption, the Act gave him a right under Section 8, Clause 4 to reject the terms and go for a formal trial. In that trial, the manager had to prove that the land was genuinely exempt. If he lost, then the land would become fully taxable. However, unless and until the religious institution failed in

such a formal trial, the protection under Section 8(3) would remain fully in force. Very importantly, nowhere in the Act was the State Government given the power to lift this protection or allow sale of Devasthan lands at its own wish. The only way the land could lose protection was if a Court formally declared that the land was not eligible for exemption. Thus, the law very clearly shows that temple and charitable lands must stay permanently tied to the religious or charitable purpose for which they were originally given. The State Government cannot, by any executive order or office decision, permit these lands to be sold or transferred into private hands. The intention of the legislature is clear that Devasthan Inam lands must always be preserved for religious and charitable use and must not be allowed to slip into private ownership by any means.

28. Section 8 of the 1863 Act has several parts, but the part important for the present case is Section 8, Clause 3 (commonly called Section 8(3)), which states lands that are held for religious or charitable institutions, and which are exempt from paying land revenue, cannot be transferred or sold in any manner. No transfer by sale (whether private or through court auction), gift, or any other method is allowed. Even the Government cannot collect any premium (nazrana) on account of such lands. In simple words, Section 8(3) totally restricts the sale, gift, or transfer of temple or religious lands that enjoy exemption from paying land revenue. It does not matter if the transfer is private or ordered by a court; such lands cannot be sold or transferred for any reason. Even the Government cannot charge any special fee (nazrana) for such

lands. The reason behind this strict rule is to make sure that lands given for religious or charitable purposes stay protected and are not taken over by private people for personal gain. Importantly, the restriction on transfer applies to lands held “on behalf of” religious institutions. This means that even if a manager (like a vahivatdar or pujari) tries to sell or transfer the land for his personal benefit, such a transaction would be void. Even if a court orders auction of the land to recover money against the manager personally, Section 8(3) would still protect the land and restricts the sale.

29. In the case of other types of land grants, it was allowed in history that when land was sold or transferred, a premium called nazrana could be charged by the Government. But for Devasthan Inam lands, Section 8(3) of the 1863 Act clearly says that even nazrana cannot be charged. This shows that the lawmakers were very clear, Devasthan Inam lands are not to be sold or transferred at all, not even with the Government’s permission or by paying a premium. In practice, sometimes revenue officers have wrongly treated Devasthan lands like other restricted lands and have demanded nazrana or given permission for sale. But under the 1863 Act, the State Government has no legal power to allow any sale or transfer of Devasthan lands. Any such permission given by an officer or by the Government, allowing sale of Devasthan land by taking nazrana, is illegal and has no value in the eyes of law. Even though the State Government has wide powers to manage land revenue matters generally, when it comes to Devasthan lands, it cannot break or override Section 8(3) of the 1863 Act. Very importantly, the Act does not give any power to the Government to

remove the entry in the land records which shows the land as "Devasthan Inam (Class III)." Even if, by some mistake or order, the Government deletes the Devasthan entry from the record, it does not change the fact that the land belongs to a deity or religious trust. The restriction under Section 8(3) continues to apply so long as the land is actually held for a religious institution. Thus, even if the Devasthan entry is deleted, the Government cannot permit the land to be sold unless it is formally decided by a Court that the land was never Devasthan land in the first place.

30. Using the above principles, the next question is, can a Vahiwatdar (manager) of Devasthan Inam Class III land claim personal ownership just by getting the "Devasthan" entry deleted from the records? In my respectful view, the clear answer is no. A Vahiwatdar cannot convert temple land into his personal property just by changing the revenue record. Revenue entries are only made for government record-keeping and tax purposes they are not proof of ownership. If the land was originally given as a temple grant, its real character remains the same even if the word "Devasthan Inam" is deleted from the revenue record. Thus, the land remains the property of the deity. Section 8(3) acts like a strong legal wall. As long as Section 8(3) applies, no sale or transfer of the land is allowed, even if some change is made in the revenue records. If a Vahiwatdar changes the record and then tries to sell the land, he acts without legal authority. Such a sale would be illegal, and the property can be reclaimed as temple property. The law does not allow a Vahiwatdar to argue that he became the owner simply because the revenue record changed. The property

remains religious trust property, and even any money received from illegal sale would belong to the deity.

31. In Maharashtra, public religious trusts including temples are controlled by the Bombay Public Trusts Act, 1950. According to this Act, all temple lands must be registered as part of the temple's trust property. If any sale, transfer, or permanent change in temple property is needed, it cannot be done without taking prior permission from the Charity Commissioner under Section 36 of the Act. Thus, even if someone manages to change the revenue record, they cannot sell temple land freely. They must apply to the Charity Commissioner, explain why the sale is necessary for the temple, and get permission. If this process is not followed, any such sale would be invalid and can be cancelled. Unfortunately, there are cases where some Vahiwatdars or managers have tried to keep valuable Devasthan land out of temple control by deleting entries or making private deals.

32. But if such deletion of Devasthan status is done by misrepresentation or fraud, it can be reopened later. Devotees of the temple or the Government can step in and demand that the land be returned to the deity. Courts have a duty to protect temple property. So even if some entries are deleted or some consent is taken wrongly, the true nature of the land can always be checked, and the property can be restored to the temple. The only situation where a Vahiwatdar or an inam holder can legally become the personal owner of land is if it is proved that the land was never a Devasthan grant but was a personal or service inam (personal grant). If it is proven, under the Personal Inams Abolition Act, the

person would become the lawful occupant. But to prove this, the person must bring very strong and clear evidence. The original grant must show that the land was given to an individual and not to a deity. Just managing the land for a long time is not enough to claim ownership. Unless there is a competent Court judgment clearly saying so, the land remains temple property.

33. To summarize: A Vahiwardar cannot become owner of Devasthan Inam Class III land just by changing the revenue record. Deleting the "Devasthan Inam" entry without a proper legal process does not change the real nature of the land. Section 8(3) of the 1863 Act puts an absolute bar on selling or transferring such land. Any sale made by manager of Vahiwardar claiming himself to be owner is void.

34. Practically, it is often seen that some individuals use a fixed method to wrongfully take control of Devasthan land: First, they apply to revenue officers to delete the "Devasthan Inam Class III" entry from the land records. Then, they get an order from the Government removing the land's exemption from land revenue. After that, they act as if the land is ordinary private land and start selling it. They make sale deeds and transfer the land to private parties. Such actions are against the law, and courts are duty-bound to protect Devasthan lands from being taken away in this illegal manner. However, this process is not legally valid for several reasons.

- (i) Firstly, the Exemptions from Land Revenue Act, 1863 does not provide any express power for deleting Devasthan

entries in order to circumvent the clear prohibition contained in Section 8(3). Section 8(3) of the Act creates a statutory prohibition on the transfer of such lands, which serves a public purpose namely, preserving temple and charitable lands for religious and community use.

(ii) Administrative actions by revenue authorities cannot override this prohibition. Attempting to bypass Section 8(3) by deleting entries in the record of rights is not permissible under law.

(iii) The prohibition under Section 8(3) applies to "lands held on behalf of religious or charitable institutions wholly or partially exempt from the payment of land-revenue." Thus, even if the revenue entry is deleted, the historical fact that the land was granted to a religious institution remains unchanged. The legal character of the land is determined by its history, grant, and dedication not by the mere existence or deletion of a revenue record.

(iv) The deity is the true owner of temple property, not the manager (vahiwardar). Thus, even if a revenue officer deletes the Devasthan entry, it does not change the substantive legal position that the land belongs to the deity and continues to be protected by Section 8(3).

(v) Further administrative orders cannot override or nullify statutory prohibitions. The deletion of a revenue entry is merely an administrative act and does not confer title or change the ownership of the property under the law. Thus,

deletion of a revenue entry does not and cannot defeat the statutory protection accorded to Devasthan lands.

(vi) Under the Exemptions from Land Revenue Act, 1863, Devasthan Inam lands are permanently exempt from payment of land revenue and are statutorily inalienable.

The ownership of such lands vests absolutely with the deity or religious institution. The inamdar or vahiwatdar is, at best, a manager, not the owner.

(vii) Post-independence land reform laws, such as the Maharashtra Personal Inams Abolition Act, 1953, did not disturb this arrangement in relation to Devasthan Inams. Devasthan lands were excluded from abolition statutes because of their religious nature. Thus, such lands were never converted into private property of managers by any law.

(viii) Further, the State Government has no authority under the 1863 Act or any other law to remove the revenue-free status or permit the sale of Devasthan lands on an ad-hoc or administrative basis.

(ix) A vahiwatdar cannot acquire ownership simply by getting the revenue records altered. Revenue records are only evidence of title, not title itself. Especially when revenue entries are modified contrary to law, they lose their evidentiary value.

(x) Deleting the “Devasthan Inam” entry in violation of Section 8(3) does not confer any ownership rights upon the

manager or any private party. At most, what such deletion does is make the land liable to payment of land revenue. It does not dissolve or alter the dedication of the property to the deity.

(xi) Section 8(3) of the Act acts as a shield protecting religious property, not a sword for the manager to claim personal ownership. As long as Section 8(3) is in force and applicable, any transfer of Devasthan land without proper legal sanction would be null and void in the eyes of law.

(xii) The vahiwardar's rights are limited only to managing the property and enjoying its usufruct (use and income) for the benefit of the deity. He has no right to alienate or sell the property for his own benefit. Thus, a vahiwardar cannot claim personal title or sell Devasthan land for personal gain. Any such attempt is void ab initio.

35. In the light of the legal position clarified earlier, I have carefully scrutinized the impugned order passed by respondent No.1. The impugned order interprets Section 8(3) of the Exemptions from Land Revenue Act, 1863 in a manner which, according to respondent No.1, empowers him to resume the land by levying full land revenue assessment from the existing holder. However, as discussed earlier, this interpretation cannot be accepted in law. It is well settled that the interpretation of a statutory provision must be in accordance with the plain meaning of the language used by the legislature. Section 8(3) does not grant any power to extinguish the rights of the holder or to resume

the land itself, it merely permits the imposition of full land revenue assessment where exemption is withdrawn. Therefore, the reading of Section 8(3) as conferring powers of resumption is legally erroneous.

36. Further, the reliance placed by respondent No.1 on the Joglekar Law Manual is wholly misplaced and cannot be accepted. The Joglekar Manual is not a statutory law made by the Legislature. It is merely an administrative compilation, intended for the internal guidance of revenue officers. It does not have the force of law. It is a well-settled principle that administrative instructions, however authoritative they may appear, cannot override or alter the express provisions of a statute. When there is a conflict between a legislative enactment and administrative directions, it is the statute which must prevail. In the present case, Section 8(3) of the Exemptions from Land Revenue (No.1) Act, 1863 is a clear and binding statutory provision. It imposes an absolute bar on the transfer of Devasthan Inam lands. No administrative manual, including the Joglekar Manual, can dilute or bypass this statutory command. The impugned order proceeds on a wholly incorrect assumption that once the land is resumed under Clause 66 of the Joglekar Manual, the existence of the Devasthan institution itself comes to an end. Such an assumption betrays a basic misunderstanding of the law relating to religious and charitable endowments. A Devasthan institution is a juristic entity recognized by law. Its existence does not depend merely on possession of land. Even if the land is resumed, the deity or religious institution continues to exist in the eyes of law. The

property dedicated to a deity is impressed with the character of trust property, and its protection does not cease merely because of administrative action. Thus, the view taken in the impugned order, based on the Joglekar Manual, is legally unsustainable and cannot be upheld.

37. It must be kept firmly in mind that mere withdrawal of land revenue exemption, or even the imposition of full land assessment, does not and cannot, by itself, extinguish the religious character of the land or bring an end to the existence of the Devasthan. The law is well-settled that once a religious endowment is validly created, it continues to exist as a juristic entity recognized by law. Its continuity does not depend upon the grant of fiscal concessions by the State. The existence of the deity or the temple is rooted in the act of dedication and in the purpose of the endowment, and not in the enjoyment of revenue exemption. The resumption of revenue exemption affects only the financial or fiscal status of the land, it merely results in the obligation to pay land revenue to the State. It does not and cannot affect the underlying religious rights of the deity or the institution, nor can it convert the nature of the property from trust property into private property. The impugned order, however, proceeds on a mistaken understanding of law. It incorrectly assumes that the withdrawal of revenue exemption brings the existence of the Devasthan itself to an end. Such an approach is legally flawed and unsustainable. An administrative manual or an executive order cannot override the fundamental principles of law governing religious and charitable endowments. The impugned order, based as it is on a clear misapplication of law

and on reliance upon an administrative manual having no statutory force, results in unjustified interference with the rights of the Devasthan institution. It cannot be sustained and must necessarily be set aside.

38. The impugned order also rests upon another legally incorrect presumption namely, that if the land is not specifically allotted by the Government, there is no prohibition against its transfer. This assumption cannot be accepted. As already discussed earlier, Section 8(3) of the Exemptions from Land Revenue (No.1) Act, 1863 imposes a clear statutory prohibition against the transfer of Devasthan Inam lands. The prohibition under Section 8(3) is absolute. It does not depend upon whether the land is formally allotted by the Government or not. The inalienability flows from the very fact that the land is held on behalf of a religious or charitable institution and is revenue-free or partly revenue-free. In practice, it is true that administrative steps like deletion of revenue entries have sometimes been misused to attempt alienation of Devasthan lands. However, mere alteration of entries in revenue records does not, and cannot, affect the true legal position. The basic legal prohibition remains fully in force. The land continues to be held as a manager for the deity or religious institution, and its transfer is barred by law. Thus, any transfer made by a Vahiwardar or Pujari claiming himself to be owner without a clear and specific conferment of ownership rights under law is void and does not create any valid title in favour of the transferee. Accordingly, the reasoning adopted in the impugned order, being contrary to the statutory framework and settled principles of law, cannot be

sustained and must necessarily be set aside.

39. As rightly contended by the petitioners, and upon careful perusal of the material placed on record, it is evident that various revenue documents consistently confirm the religious character of the land in question. The following entries, in particular, support the case of the petitioners: The Land Alienation Register clearly describes the land as Devasthan Inam land; Mutation Entry No. 4667 specifically records the same status; The Record of Rights and the Dumana Land Register maintained at Vita Chawdi further reinforce the position that the land is classified as Class III Devasthan Inam land. These historical entries are contemporaneous records maintained in the ordinary course of official duty and carry a high degree of evidentiary value. Significantly, respondent No.3 has not produced any credible or contrary material to rebut these documentary evidences. In the absence of any such contrary evidence, the long-standing classification of the land as Devasthan Inam must be accepted as correct. Thus, the consistent revenue records corroborate the petitioners' case and affirm the religious and trust character of the land beyond doubt.

40. On the issue of locus standi that is, the right of the petitioners to file the present petition the contention raised by the petitioners deserves acceptance. The petitioners have explained, and the record supports, that the so-called consent affidavit dated 31st January 2013, which was allegedly produced before respondent No.1, does not bear the genuine signature of petitioner No.1. Petitioner No.1 has categorically disputed her signature on

the said affidavit. There is no convincing material on record to disprove her assertion or to establish that the consent affidavit was genuinely executed. Even otherwise, it is well-settled that if an action is void in law as in the case of deletion of a Devasthan Inam entry contrary to statutory provisions any person concerned or affected has the right to challenge such an action. The petitioner, being the legal heir and representative of the original Vahiwardar, is clearly an interested and affected party. She is entitled to assert and protect the rights of the Devasthan institution. Accordingly, the petitioner is fully competent to maintain the present writ petition. The objection to her locus standi is, therefore, without merit and must be rejected.

41. As regards the opinion of the Law and Judiciary Department dated 17 January 2003, which has been relied upon by respondent No.1, I find that the facts of that case are clearly distinguishable. In the facts of that case the land was granted to the forefathers of the applicant by the then Ruler specifically for cultivation purposes; The Sanad (grant) conferred personal ownership on the applicant's forefathers, and it was not a religious grant in favour of any deity; Moreover, the applicant therein had secured permission from the Ruler for alienating the land. Thus, in that situation, it was rightly advised that the entry of Devasthan Inam Class III land could be deleted. However, the present case stands on an entirely different footing. In the present case, respondent No.3 has failed to place on record any material showing that the land was granted to his predecessor personally by way of a Sanad or grant. There is no evidence produced to show that the title was ever conferred upon

the vahivatdar personally. On the contrary, the historical revenue records clearly show that the land is Devasthan Inam land, and continues to be so. Thus, in the absence of any supporting material, and in view of the overwhelming documentary evidence showing that the land is Devasthan property, the impugned order cannot be sustained in law.

42. After a careful and comprehensive analysis of the statutory provisions and the settled principles of law, the following conclusions clearly emerge:

(i) A person cannot claim ownership over Devasthan Inam Class III land merely by seeking deletion of the Devasthan entry from the revenue records. Revenue records are maintained only for fiscal purposes. Deletion of a revenue entry does not and cannot create ownership rights. Thus, even if a Vahiwatdar gets the Devasthan Inam entry deleted, he does not acquire any right to sell or transfer the land. The land remains trust property, dedicated to the deity.

(ii) A Vahiwatdar (manager) cannot claim personal ownership of Devasthan Inam land unless it is proved, by clear and convincing evidence, that the land was never Devasthan Inam in the first place. Such a claim cannot be based on mere assertions or long management of the property. It requires formal adjudication in accordance with law, based on strong documentary proof.

(iii) Devasthan Inams confer ownership upon the deity or the religious institution. The Vahiwatdar is only a manager.

He acts as an agent who manages the property, collects income, and ensures that the religious worship and associated activities continue uninterrupted. He does not own the property. He cannot alienate it or treat it as his personal property for private gain. His powers are strictly limited to management for the benefit of the deity or religious institution.

(iv) The State Government does not have any power to grant exemption from the prohibition on transfer imposed by Section 8(3) of the Exemptions from Land Revenue (No.1) Act, 1863. Section 8(3) imposes a statutory and absolute bar against the transfer or alienation of Devasthan Inam lands. The 1863 Act does not empower the State Government to waive, relax, or dilute this prohibition at its discretion. The only lawful method to defeat the protection afforded by Section 8(3) is by formal adjudication in appropriate legal proceedings, where it is proved by clear and cogent evidence that the land was never a Devasthan grant. Unless such a finding is recorded by a competent authority or court, the protection under Section 8(3) remains absolute. Any sale or transfer of Devasthan Inam land covered by Section 8(3) of Act 1863 by the manager or Vahiwardar without such adjudication is void ab initio and has no legal effect.

43. In view of the foregoing discussion and upon a careful consideration of the factual matrix and the applicable legal principles, I pass following order :

- (i) The Writ Petition is allowed.
- (ii) The impugned order dated 7th March 2013 passed by respondent No.1 in Application No. DEV-1012/PK.130/L4 is quashed and set aside.
- (iii) It is declared that the land bearing Revision Survey No. 1052/2, situated at Village Vita, Taluka Khanapur, District Sangli, continues to be classified as Class III Devasthan Inam land.
- (v) Rule is made absolute in terms of prayer clause (b) of the petition.
- (vi) There shall be no order as to costs.

(AMIT BORKAR, J.)