

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CONTEMPT PETITION NO.182 OF 2025
IN
CIVIL APPLICATION NO.1395 OF 2015
IN
SECOND APPEAL NO.659 OF 2015**

**SMT. SUVARNA RAGHUNATH PATIL AND ANR.
VERSUS
STATE OF MAHARASHTRA AND ORS.**

...
Mr. Nikhil Wadikar i/by Mr. Nandu Pawar, Advocate for Petitioners.
Mr. Abhijit Adagule a/w Ms. Ketaki Patil, Advocate for Respondents.
...

**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 03rd SEPTEMBER, 2025.**

ORDER:-

1. The petitioners seek initiation of contempt proceeding against respondent no.2, alleging willful disobedience of order dated 30.09.2019, passed by this Court in Civil Application No.1395/2015, thereby restraining respondents from creating third party interest in suit lands.

2. In nutshell it is case of petitioners that they have filed Second appeal assailing judgment and decree dated 27.10.2014 passed by learned District Judge at Kolhapur in Regular Civil Appeal No.142/2007 arising out of Regular Civil Suit No.122/2002 for partition and separate possession. According to petitioners, Second Appeal has been admitted on 30.09.2019. Similarly, in Civil

Application No.1395/2015 this Court granted interim relief vide order dated 30.09.2019 in terms of prayer Clause (b), which reads thus:

“b. The respondents herein may be restrained by an order of injunction from creating any third party rights, interest or title in the suit property and may be restrained from dealing with, alienating or transferring the suit property in any manner whatsoever either directly or indirectly by themselves or through their servants or agents during the pendency of the second appeal”

3. According to petitioners, although respondents were restrained from alienating or transferring suit property in any manner, respondent no.2 in utter disregard to injunction order, executed sale deed dated 22.05.2023 in favour of respondent nos.3 and 4 and created third party interest. The respondent nos.5 and 7 are Government Officers, who are also responsible for contempt.

4. The respondent nos.2 and 3 filed affidavit-in-reply and denied alleged disobedience of directions given by this Court under order dated 30.09.2019 in Civil Application No.1395/2015. They admitted execution of sale deed in respect of land bearing Gut No.539. However, contended that it is not suit property in Regular Civil Suit No.122/2002, from which Second Appeal arises.

5. Heard learned Advocates appearing for respective parties.

6. Having considered submissions advanced and on perusal of record it is discernible that Second Appeal No.659/2015 arises out of judgment and decree passed by learned Civil Judge Junior Division,

Kagal in Regular Civil Suit No.122/2002. Perusal of description of suit property in paragraph no.1 of plaint depicts that particulars of lands situated in different 9 survey numbers are mentioned. However, there is nothing to show that land Gut No.539 was part of suit property in Regular Civil Suit No.122/2002. Pertinently, in subsequent suit i.e. Regular Civil Suit No.5/2012 between parties, independent claim in respect of land Gut No.539 has been independently raised with specific contention that land Gut No.539 has been excluded from Regular Civil Suit No.122/2002. The aforesaid factual aspects would lead to the conclusion that land Gut No.539 is not part of suit property in Regular Civil Suit No.122/2002.

7. The learned Advocate appearing for contempt petitioners invites attention of this Court to operative part of decree passed in Regular Civil Suit No.122/2002 and endeavours to point out that decree is passed in respect of shares allotted as per Mutation Entry Nos.726, 727 and 728 and Mutation Entry No.727 specifically deals with land Gut No.539. Therefore, land Gut No.539 will have to be treated as suit property. It is difficult to countenance aforesaid submissions for the simple reason that Regular Civil Suit No.122/2002 was instituted for partition and separate possession of specific properties mentioned in claim clause. The operative part of decree although refers to various mutation entries, it cannot be read in isolation without looking to claim clause. The decree passed in suit cannot travel beyond claim clause

and ultimate prayers made in suit. Therefore, while interpreting operative Clause No.2 of decree passed in Regular Civil Suit No.122/2002, only properties mentioned in claim clause will have to be treated as suit properties. Since land Gut No.539 is not suit property, interim relief granted by this Court would not take within its sweep properties beyond claim clause in suit. Therefore, no case is made out to bring on record disobedience of order dated 30.09.2019 passed by this Court in Civil Application No.1395 of 2015.

8. In result, Contempt Petition sans merits. Hence, stands dismissed.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/September-2025