

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10899 OF 2025

Vitthal Ragho Daki and ors. ...Petitioners

Versus

Late Ashok Jamnadas Shah through Heirs
and ors. ...Respondents

Mr. Kunal Nawale, a/w Vaibhav Joshi, for the Petitioners.

CORAM: N. J. JAMADAR, J.

DATED: 2nd DECEMBER, 2025

Order:-

1. Heard the learned Counsel for the petitioners.
2. The challenge in this petition is to an order dated 10th July, 2024 passed by the learned Civil Judge, Uran, whereby an application, preferred by respondent No.2 for impleadment as a party defendant to the suit, came to be allowed.
3. The learned Civil Judge was of the view that, defendant No.2 had purchased the suit property and was, therefore, a necessary party to the suit.
4. Mr. Navale, the learned Counsel for the petitioners, submitted that, the consideration by the learned Civil Judge was owefully inadequate. The claim of defendant No.2 that, he has purchased the suit property is tenuous. An endeavour was

made to demonstrate that the suit property is not the trust property, which the defendant No.2 claimed to have purchased under the Sale Deed dated 30th October, 2001. It was further submitted that the application for impleadment was also barred by limitation as the application was preferred in the year 2023.

5. The petitioners have instituted the suit for a declaration that the parents of the petitioners became the deemed purchasers of the suit land on the Tillers Day, i.e. 1st April, 1957 and the Mutation Entries, whereby the names of the predecessor-in-title of the petitioners were deleted from the record of rights of the suit land are illegal and not binding on the petitioners.

6. By an order dated 13th November, 2002, the learned Civil Judge referred the issue of tenancy to the Agricultural Lands Tribunal ("ALT"). By an order dated 31st May, 2012, the ALT returned a finding that the petitioners are not the tenants in respect of the suit land as it is registered as a trust property. There was no relationship of the landlord and tenant, within the meaning of Maharashtra Tenancy and Agricultural Lands Act, 1948 ("the MT&AL Act, 1948"). It was further noted that, the landlord trust had already sold the trust property by obtaining the permission of the Charity Commissioner under Section

36(1)(a) of the Maharashtra Public Trust Act, 1950 (“the Trust Act, 1950”).

7. Respondent No.2 filed an application seeking impleadment asserting, *inter alia*, that respondent No.2 had purchased the suit property pursuant to the permission granted by the Charity Commissioner under Section 36(1)(a) of the Trust Act, 1950. By the impugned order, the learned Civil Judge was persuaded to allow the said application.

8. It further appears that, defendant No.2 has filed written statement. Additionally, defendant No.2 filed an application for rejection of the plaint. Only thereafter, the petitioners have filed this petition assailing the legality, propriety and correctness of the impugned order.

9. Evidently, respondent No.2 has purchased the suit property in pursuance of the permission granted by the Charity Commissioner under Section 36(1)(a) of the Trust Act, 1950, under a registered Sale Deed. Conversely, the principal claim of the petitioners that their predecessor-in-title became the deemed purchasers of the suit land on the Tillers Day has been negated by the Authorities under the MT&AL Act, 1948.

10. Respondent No.2 being the owner of the suit property on the strength of the Sale Deed executed by defendant No.1 has a direct interest in the subject matter of the suit. Since defendant No.1 has divested its interest in the subject matter of the suit by obtaining the permission of the Charity Commissioner under Section 36(1)(a) of the Trust Act, 1950, in the absence of respondent No.2 – defendant No.2, no effective decree can be passed in the suit. Therefore, the learned Civil Judge was well within his right in allowing the application for impleadment of defendant No.2 on the premise that defendant No.2 is a necessary party. Resultantly, no interference is warranted in the impugned order.

11. The petition stands dismissed.

[N. J. JAMADAR, J.]