



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

**LETTERS PATENT APPEAL NO. 60 OF 2011
IN
WRIT PETITION NO. 3977 OF 2010**

Yeshwantrao S/o Parshuram Parwate
Since Dead through LR.

(Original Petitioner)

- 1-A) Smt. Kamlabai Wd/o Yashwantrao Parwate
Aged about 67 years, Occ.- Household,
- 1-B) Ramesh S/o Yashwantrao Parwate,
Aged about 50 years, Occ.- Cultivation,
- 1-C) Vijay S/o Yashwantrao parwate,
(Since Dead) through LR. :
- 1C-i) Smt. Vidya Vijay Parwate,
Aged about 45 years, Occ.- Household,
- 1C-ii) Sau. Smita W/o Amrut Borkat,
Aged about 22 years, Occ.-Household,
R/o. At Post. Sawargaon, Tq. Nagbhid,
District Chandrapur.
- 1C-iii) Angraj Vijay Parwate,
Aged about 20 years, Occ.-Student,
Both No.(1 C-i) and (1 C-iii) R/o.
Walani, Post. Sawargaon,
Tq. Nagbhid, Distt. Chandrapur.
- 1-D) Vilas S/o Yashwantrao Parwate,
Aged about 45 years, Occ.- Cultivation.
Nos. 1-A, 1-B and 1-D
R/o. Walani, Post. Sawargaon,
Tq. Nagbhid, Distt. Chandrapur.

.... **APPELLANTS**

// **VERSUS** //

State of Maharashtra,
through Sub-Divisional Officer,
Bramhapuri, Tq. Bramhapuri,
Distt. Chandrapur (Maharashtra)

.... **RESPONDENT**
(Original Respondent)

Mr. R. D. Dandavate, Advocate h/f. Mr. M. P. Khajanchi,
Advocate for Appellants.

Mr. S. B. Bissa, Assistant Government Pleader for Respondent.

CORAM : **MRS. M. S. JAWALKAR AND**
PRAVIN S. PATIL, JJ.

DATE : **08th JULY, 2025.**

ORAL JUDGMENT :- (Per : M. S. JAWALKAR, J.)

1. By this Letters Patent Appeal, the Appellants are challenging the order dated 16.11.2010, passed by the Single Judge of this Court in Writ Petition No.3977/2010, (*Yashwantrao Vs. State of Maharashtra*).

2. In the said matter, the contention of the Petitioner was that reliance upon the Judgment in *Kashibai Wd/o Sanga Pawar and Ors. Vs. State of Maharashtra*, reported in *1993 Mh.L.J. 1168*, by Maharashtra Revenue Tribunal to cover a sale transaction between the Petitioner and then a Non-tribal transferee dated 15.12.1969 is misconceived. The Petitioner pointed out that caste “Pardhan” has been recognized as Scheduled Tribe for the first

time for State of Maharashtra on 27.07.1977 and hence transactions between members of Pardhan community and Non-tribal prior to said date, cannot be subjected to provisions of Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974. The Petitioner relied on Judgment in ***Tukaram Laxman Gandewar Vs. Piraji Dharmaji Sidarwar by LRs Laxmibai and Ors.***, reported in ***1989 Mh.L.J. 815***. It was his contention that facts involved in ***Kashibai Wd/o Sanga Pawar*** (supra) are totally different therefore, Judgment in ***Tukaram Laxman Gandewar*** (supra) holds good in present facts. However, relying on the Judgment in ***Kashibai Wd/o Sanga Pawar*** (supra) the said Writ Petition No. 3977/2010 came to be dismissed by the Single Bench of this Court which is under challenge in the present Letters Patent Appeal. The Letters Patent Appeal came to be admitted and status quo was directed to be maintained.

3. It was contention of the Appellants that the issue involved in the matter is covered by the Judgment of the Division Bench in ***Tukaram Laxman Gandewar*** (supra).

4. Considering the above citations of ***Kashibai Wd/o Sanga Pawar*** (supra) and ***Tukaram Laxman Gandewar*** (supra),

this Court vide order dated 30.01.2020 in Writ Petition No.1701/2019, referred the following question for being considered by the Larger Bench :

*“Whether the subsequent recognition of the transferor as a tribal after transfer of the land would entitle the transferor to seek restoration of possession of land under Section 3(1) of the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974 as held in **Kashibai Wd/o Sanga Pawar and Ors. Vs. State of Maharashtra 1993(2) Mh.L.J. 1168** or whether such subsequent recognition would be of no assistance to the tribal transferor as held in **Tukaram Laxman Gandewar Vs. Piraji Dharmaji Sidarwar by LRs Laxmibai and Ors. 1989 Mh.L.J. 815** ?”*

5. In view of this reference, this Court vide order dated 12.08.2021 directed to list the matter along with Writ Petition No.1701/2019. It appears that said reference is answered by the Full Bench of this Court as follows :

“Subsequent recognition of a transferor as a Tribal within the meaning of Section 2(1)(j) of the Restoration Act would not entitle him to seek restoration of the land transferred by him to a non-Tribal-transferee and his subsequent recognition as such is of no assistant to him for the purpose of availing of the benefit of Section 3 of the Restoration Act.”

6. In view of the answer to the reference, the case is covered and the Letters Patent Appeal needs to be allowed.

7. Accordingly, the Letters Patent Appeal is allowed.

8. The order dated 16.11.2010, passed in Writ Petition No.3977/2010 by Single Judge is hereby quashed and set aside. The order dated 15.02.2010, passed by Maharashtra Revenue Tribunal, Nagpur in Appeal No. Tri./25-B/2001 and order passed by the Sub-Divisional Officer, Bramhapuri in Revenue Case No. 74/LND-31/1975-76 of village Walani, Tq. Nagbhid, District Chandrapur, both are hereby quashed and set aside.

The Letters Patent Appeal stands disposed of in the above terms. No order as to costs.

(PRAVIN S. PATIL, J.)

(SMT. M.S. JAWALKAR, J.)