IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4292 OF 2026

1. Mahaveer Kushaba Kadam,
age 65 years, Occ. Agri,
R/o Jalkot, Tq. Tuljapur,
District Dharashiv.

2. Sou. Ayodhya Mahaveer Kadam,
Age 55 years, Occ. Agri,
R/o. Jalkot, Tq. Tuljapur,
District Dharashiv.

Through their GPA Holder
Manoj Mahaveer Kadam,
age-34 years, Occ. Agri,
R/o. Jalkot, Tq. Tuljapur,
District-Dharashiv. Petitioners.
(Ori. Defendants)

Versus

1. Sachin Madhukar Kulkarni,
age adult years, Occ. Agri,
R/o. Village Hangarga (Nal),
Tq. Tuljapur, District Dharashiv.

2. Sandeep s/o Madhukar Kulkarni,
age adult, Occ. Agri,
R/o Village Hangarga (Nal),
Tq. Tuljapur, District Dharashiv.
(Resp 1 and 2 original plaintiffs)

3. Bhimashankar Baburao Katore,
age adult, occ. Agri,
R/o Village Jalkot, Tq. Tuljapur, Dist. Dharashiv.
(resp 3 is original defendant.)

4. The District Deputy Registrar,
Dharashiv District, Dharashiv.

5. The Assistant Registrar,
Tuljapur, District Dharashiv. Respondents.

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Advocate for petitioners : Mr. V.D. Sapkal Senior Counsel i/b Mr. A.D. Khedkar
Advocate for respondent no.1 : Mr. S.B. Bhapkar h/f Mr. P.B. Rakhunde
AGP for Respondents-State Authorities : Mr. V. K. Kotecha

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CORAM	**:**	**S. G. CHAPALGAONKAR, J.**
Reserved on	**:**	**April 28, 2026**
Pronounced on	**:**	**May 29, 2026**

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JUDGMENT :-

1. Present writ petition takes exception to the order dated 25th March, 2026 passed by the District Deputy Registrar in Money Lending Suit no.11 of 2017, whereby petitioner's application for rejection of plaint under Order VII Rule 11 of the Civil Procedure Code on the ground of limitation has been rejected.

2. Respondent no.1 and 2 instituted proceeding before the District Deputy Registrar, Co-operative Societies, Osmanabad under section 18 of the Maharashtra Money Lending (Regulation) Act 2014, (for short hereinafter referred to as "the Act of 2014") seeking re-conveyance and release of the property i.e. agricultural land in favor of the plaintiff, alleging that sale-deeds dated 4.8.2004 and 3.5.2006 in favor of petitioner no.2-Ayodhya Bai were obtained towards security of

unauthorized loan transaction. Pursuant to complaint submitted by respondent no.1, Assistant Registrar caused inquiry and submitted his report dated 30.12.2016 observing possibility of money lending transaction. Accordingly, Money Lending Suit no.11 of 2017 came to be registered with District Deputy Registrar under section 18 of the Act of 2014.

3. Petitioners appeared in the suit and filed an application under order VII Rule 11 of the Civil Procedure Code seeking rejection of plaint being barred by limitation and raised challenge to its maintainability. Respondent no.4/District Deputy Registrar rejected said application vide impugned order dated 25.3.2026.

4. Mr.V.D.Sapkal learned senior advocate i/b Mr. A.D. Khedkar appearing for petitioners strenuously submits that petitioner has purchased agricultural land under registered sale-deed dated 4.8.2004 from respondent no.1. Till 2016, respondent no.1 has not raised objection in respect of said sale transaction. Proceeding is initiated after 14 years under provisions of the Act of 2014 with *malafide* intention to harass petitioners. Petitioners have instituted Regular Civil Suit no.109 of 2018 seeking declaration of ownership and permanent injunction against respondent no.1, in which Trial Court has passed an order dated 4.5.2023, temporarily

restraining respondents from interfering or disturbing peaceful possession of petitioners over suit property till decision of the suit. According to Mr. Sapkal, since petitioner has purchased suit property in the year 2004 under registered sale-deed, proceeding initiated after 14 years under section 18 of the Act of 2014 is barred by limitation. He submits that section 18 of the Act of 2014, as it originally stood prescribed limitation of five years for inquiry into nature of transaction from the date of transaction. Subsequently, by way of amendment, said limitation period is extended to 15 years. However, amendment introduced by Maharashtra Act, 23 of 2014 cannot be given retrospective effect. In support of his contentions, he relies upon observations of Hon’ble Supreme Court of India in case of **T. Kaliamurthi and another Vs. Five Gori Thaikkal Wakf and others reported in (2008) 9 Supreme Court Cases 306**.

5. Accordingly, he submits that claim of respondents over property has been extinguished by operation of limitation prescribed in original Act of 2014 before extension of limitation by Maharashtra Money Lending (Regulation) Amendment Act, 2014 dated 25.06.2014. Mr. Sapkal would therefore urge that respondent no.4 ought to have entertained petitioner's application under order VII Rule 11 and rejected plaint in Money Lending suit no.11 of 2017.

6. Per contra, Mr.S.B.Bhapkar h/f Mr.P.B.Rakhunde, learned advocate appearing for respondent no.1 supports the impugned order. According to him, the provisions under order VII Rule 11 of the Civil Procedure Code cannot be invoked in the proceeding initiated under section 18 of the Act of 2014. The complaint/application made by the debtor or the proceeding initiated on the basis of verification under section 16 or inspection under section 17 before the District Registrar cannot be treated as plaint in strict sense. He would further submit that object of legislation under the Act of 2014 cannot be frustrated by raising technical plea. In support of his contentions, he relies upon observations of Hon'ble Supreme Court in case of **i]-Chhotanben and anr. Vs. Kirtibhai Jalkrushnabhai Thakkar and Ors. Reported in AIR-2018 Supreme Court 2447 and ii] Syed Yakoob Vs. K.S. Radhakrishnan and others reported in AIR 1964 Supreme Court 477 and also of this Court in case of Ashok Commercial Enterprises Vs. Hubtown Limited reported in 2026 SCC online Bom 246.**

7. Having considered the submissions advanced by learned advocates appearing for respective parties and upon perusal of material tendered into service, the core issue that arises for consideration is "*whether the proceeding under section 18 of*

the Act of 2014 seeking return of immovable property acquired by the petitioner under the registered sale-deed executed in the year 2004 is barred by limitation and, therefore, deserves to be rejected at the threshold in exercise of the powers conferred under Order VII Rule 11 of the Civil Procedure Code.?"

8. For the purpose of deliberating on the issue raised, it is apposite to refer to the legislative background of the Act of 2014.

9. The Bombay Moneylenders Act, 1946 was promulgated for regulation and control of transactions of money lending in State of Maharashtra. Section 13-A of the said Act prescribes powers of authorized officer to require production of records or documents for the purpose of verification whether the business of money lending is carried on in accordance with the provisions of the Act. Section 13-B inserted by Maharashtra 76 of 1975 deals with disposal of the property pledged with money-lender carrying on business of money lending without valid license. It further provides that, if upon inspection of records and documents, made under section 13-A of the Act, the Inspecting Officer is satisfied that money-lender is in possession of the property pledged to him by debtor as security

for the loan advanced by money-lender in course of his business of money-lending without a valid license, the Inspecting Officer was required money lender to deliver forthwith possession of such property to him and Inspecting Officer/Registrar, after due verification and identity thereof, return it to the debtor who had pledged it.

10. The aforesaid provision has been interpreted by this Court in case of **Ramesh Dhulatrao Gawhale Vs. State of Maharashtra and others reported in 2006 (5) Mh.L.J. 15.** In paragraph no.13, it is observed as under :-

> "13. Discussion above therefore leaves no doubt that legislature did not intend to cover transactions in which immovable property was sold as security under section 13-B of Act. In any case it is apparent that when interest in immovable property is transferred by mortgage or by assignment (Sale), such cases do not fall under it even if it be as security by debtor to moneylender. Legislature was alive to the legal meaning of phrase pledge and the same has been used deliberately in section 13-B. Read in contradistinction with section 18 and 28 this is more apparent. The word Pawn broker is not used in section 13-B deliberately because security accepted by moneylender may be even of title deeds or bonds or other similar securities like cheques, shares etc. In all these writ petitions, it is admitted position that the respondents or debtors have executed and registered sale-deeds in favour of petitioners and petitioners have thus acquired title to the immovable property possession of which is ordered to be restored back to such vendor debtors by Authority or is sought by the Authority itself. Obviously such direction and order is beyond scope of section 13-B of Bombay Moneylenders Act, 1946 which deals with only movable properties."

11. In the year 2014, it was noticed that harassment at the hands of money-lenders has been increased in the State of Maharashtra resulting into frequent suicides by the farmers; and then existing enactment on money-lending was found to be inadequate to protect the farmers-debtors. Hence, Government thought it fit to adopt social and legal measures to effectively prevent the harassment to the farmers-debtors by bringing better provisions for regulation and control of transactions of money-lending. Accordingly, the Governor of Maharashtra had promulgated Maharashtra Money-Lending (Regulation) Ordinance, 2014 with effect from 16.1.2014. New section 18 was introduced with title "Return of immovable property acquired in course of money-lending." It provides that, if on the basis of facts disclosed, during the verification under section 16 or inspection under section 17, or by an application from a debtor or otherwise, the District Registrar has reason to believe that any immovable property, which has come in possession of the money-lender by way of sale, mortgage, lease, exchange or otherwise, in the nature of property offered by the debtor to the money-lender as a security for loan advanced by the money-lender in course of money-lending, the District Registrar has been empowered to hold inquiry into the nature of transactions and declare the instrument or conveyance as invalid and further order as to

restoration of possession of the property to the debtor who has executed the instrument or conveyance as a security, however, with rider that such an inquiry and action can be taken in respect of transactions which took place within the period of "five years" from the date of verification or inspection or the date of receipt of application from the debtor. However, it was urged on the floor of state legislation to amend section 18 of the Act which provides for return of immovable property acquired in course of money lending by increasing time limit from 5 years to 15 years. Accordingly, Maharashtra Amendment Act 23 of 2014 has been passed effective from 14.06.2014 whereby limitation of five years as prescribed in original Section 18 has been increased to 15 years.

12. As can be observed from the object of legislation to curb harassment at the hands of money-lenders and consequential suicides of the farmers, the Act has been promulgated and provision is incorporated under Section 18, whereby the District Registrar is authorized to inquire into the nature of transactions and declare the same as money-lending transactions after holding inquiry into the nature of transactions. Once the District Registrar declares the instrument or conveyance as invalid, he is empowered to order restoration of the possession of the property to the debtor, who

has executed such instrument as a security towards loan transaction.

13. The corollary of the aforesaid provision demonstrates that Act has been promulgated with benevolent object and special provisions are introduced authorizing District Registrar to invalidate the instrument or conveyance with consequential order of restoration of possession to the debtor. The Legislator thought it fit to prescribe the limitation period of 15 years for causing inquiry into unauthorized money-lending transactions and restoration of possession to the victims of such transactions.

14. In light of the aforesaid legislative backdrop, if contention of petitioner is considered, it is difficult to hold that the proceeding initiated in the year 2016 in respect of the transaction of 2004 is barred by limitation. Undisputedly, the proceeding is initiated before expiry of the limitation period of 15 years as prescribed under amended Section 18 of Act of 2014.

15. Mr. Sapkal learned senior Advocate endeavors to contend that since limitation of 5 years was prescribed in original Section 18 of the Act of 2014 and period of more than 5 years had been lapsed prior to institution of the proceeding,

the plaint needs to be rejected. His reliance on the observations of the Supreme Court of India in case of T. Kaliamurthi and another (supra) appears to be misplaced. In that case the effect of Section 107 of Wakf Act, 1995 exempting suits for possession of immovable property of Wakf from provisions of Limitation Act, 1963 has been considered. The Supreme Court in paragraph no.36 observed as under :-

> "36. Section 31 of the Limitation Act, 1963 provides that nothing in the Limitation Act, 1963 shall enable any suit, appeal or application to be instituted, provided or made, for which the period of limitation prescribed by the Limitation Act, 1908 expired before the commencement of this Act. Section 31 of the 1963 Act assumes great importance which was completely overlooked by the first appellate court. Admittedly, in the present case, the suits were filed long after the death of the Muthavalli and the suit properties were transferred as far back as in 1927, therefore, the suits were barred under the Limitation Act, 1908. In other words, in the present case, the period of limitation prescribed under the 1908 Act had already expired before the commencement of the 1963 Act and, therefore, in view of the clear mandate of Section 31 of the Limitation Act, 1963, suits could not have been instituted by taking the plea that the same was within the limitation under the 1963 Act."

16. Mr. Sapkal, learned Senior Advocate would therefore submits that where the right of suit is barred under law of limitation in-force before new provision came into operation and a vested right has accrued to any individual, the provisions cannot revive or take away accrued vested right. There cannot be dispute over proposition of law as espoused by the Hon'ble Supreme Court in case of T. Kaliamurthi and another. In that

case, the transactions in question were entered into by the Mutawali in the year 1927 before his death. The rights in favour of purchaser were accrued in view of the law of limitation, particularly, mandate under Section 31 of the Limitation Act, 1963. Therefore, it was held that suit instituted by the Wakf relying upon the amendment section 107 of the Wakf Act, 1995 cannot have effect of reviving, barred claim.

17. In the present case, petitioners cannot claim any vested right in the property that would prevent the Authorities designated under the Act of 2014 to inquire into the nature of transactions. The limitation of five years as provided under original section 18 was operative for period of six months prior to Maharashtra Amendment 23 of 2014 with effect from 14.6.2014. The petitioners cannot claim that only because in original section 18 of Act of 2014, limitation of five years was prescribed, some right was accrued in their favour or remedy available to respondent/debtor is barred because five years limitation period was prescribed before amendment to section 18. It is trite that limitation prescribed for any action does not create right nor it takes away right. In only bars remedy.

18. Admittedly, when subject transaction took place in the year 2004, there was no provision analogous to present section 18, in the Act of 1946. The Act of 2014 is brought with special

provision under section-18 providing for inquiry into the nature of transactions in respect of immovable property. By amendment, the limitation of five years prescribed to initiate inquiry is enhanced to 15 years to find out nature of transaction.

19. Pertinently, petitioners have not challenged the constitutional validity of newly introduced section 18, particularly, after its amendment in the Act of 2014. If contention of petitioners is accepted, the amended provision would become redundant and ineffective. The petitioners cannot claim any right that would prevent the Authorities to inquire into transactions nor inquiry initiated within 15 years of transaction can be invalidated by applying the bar of limitation.

20. In result, writ petition is devoid of merits, hence **dismissed**.

(S. G. CHAPALGAONKAR)
Judge

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