



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.17454 OF 2025**

Dashrath Kisan Phuge and Anr. ... Petitioners
versus
Nivrutti Ramabhau Shinde and Ors. ... Respondents

Mr. Prajakt Arjunwadkar (through VC) with Mr. Omkar Shinde, Mr. Prathamesh Hande, for Petitioners.
Mr. Dinesh Bhosale, for Respondent No.1.

CORAM: N.J.JAMADAR, J.

DATE : 20 JANUARY 2026

ORAL ORDER :

1. Heard the learned Counsel for the parties.
2. The challenge in this Petition is to an order dated 6 November 2025 passed by the learned Civil Judge, Rajgurunagar Khed, Dist. Pune, whereby an application for amendment preferred by the Plaintiff – Respondent No.1 seeking declaratory relief of title and qua the instruments executed on 9 September 2011, 26 October 2017 and 29 May 2019 in respect of the suit property, came to be allowed.
3. Learned Counsel for the Petitioners submits that, by the proposed amendment, the Plaintiff has sought adjudication and declarations which are within the exclusive jurisdiction of the Agricultural Lands Tribunal under the provisions of the Maharashtra Tenancy and Agricultural Lands Act, 1948, and there is a specific bar under Section 85A of the said Act, 1948. Secondly, the

decisions on the application under Section 32G of the Act, 1948 for the determination of the purchase price, and the grant of certificate under Section 32M of the Act, 1948, on the basis of which the declaration has been sought, stand quashed and set aside by the Sub-Divisional Officer in an appeal preferred by the Petitioners.

4. Thirdly, it was submitted that the proposed amendment challenging the legality and validity of the sale deeds dated 7 July 2006 was clearly barred by law of limitation, and, therefore, the learned Civil Judge could not have allowed the application.

5. I have perused the averments in the application for amendment, schedule of the proposed amendment and the impugned order. By the proposed amendment, the Plaintiff is seeking declaration of ownership based on the orders passed by the authorities under the Act, 1948. The effect and operation of the said order passed by the SDO is stayed by this Court in WP No.12005 of 2024 by recording a prima facie view that the Sub-Divisional Officer lacks jurisdiction to pass such an order. The Plaintiff is not seeking determination of the issues which are within the province of the authority of the Agricultural Land Tribunal. Whether such declaration on the basis of the orders passed under Section 32G and the certificate granted under Section 32M of the Act, 1948 cannot be granted is a matter of merit. It is trite, at the stage of consideration of the application for amendment, merits of the

amendment cannot be delved into. (**Rajesh Kumar Aggarwal & Ors. V/s. K.K.Modi and Ors.**¹).

6. So far as the challenge to the impugned order on the ground that the relief claimed therein with regard to the three sale deeds dated 9 September 2011, 26 October 2017 and 29 May 2019 was ex-facie barred by limitation, the issue appears to be interconnected with the declaratory relief sought by the Plaintiff.

7. In any event, in view of the decision of the Supreme Court in the case of **Ragu Thilak D. John V/s. S. Rayappan and Ors.**,² the issue of limitation can be kept open to be adjudicated at the stage of final decision of the suit. Therefore, this court is not inclined to interfere with the impugned order.

8. The Writ Petition stands dismissed.

9. However, it is clarified that the issue of limitation qua the relief of declaration of sale deeds dated 9 September 2011, 26 October 2017 and 29 May 2019 shall be open for adjudication at the final decision of the suit.

(**N.J.JAMADAR, J.)**

1 (2006) 4 SCC 385

2 (2001) 2 SCC 472