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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**APPEAL FROM ORDER NO. 106 OF 2026
WITH
INTERIM APPLICATION NO. 603 OF 2026**

Sarabai W/o Ahmedsaheb Kokani
(Since Deceased) through legal heirs
Ahmedsaheb Fakirsaheb Kokani And Ors. .. Appellants
Versus
Farida W/o Gafur Kokani and Ors. .. Respondents

**WITH
APPEAL FROM ORDER NO. 195 OF 2026
WITH
INTERIM APPLICATION NO. 989 OF 2026**

Mahemuda Kokani W/o. Hanif Kokani and Anr. .. Appellants
Versus
Farida W/o Gafur Kokani and Ors. .. Respondents

**WITH
APPEAL FROM ORDER (ST.) NO. 3321 OF 2026
WITH
INTERIM APPLICATION (ST.) NO. 3322 OF 2026**

Gulam Gaus Razzak Kokani .. Appellant
Versus
Farida W/o Gafur Kokani and Ors. .. Respondents

**WITH
APPEAL FROM ORDER (ST.) NO.3367 OF 2026
WITH
INTERIM APPLICATION (ST.) NO.3369 OF 2026**

Thakkar Developers Private Limited And Others .. Appellants
Versus
Farida W/o Gafur Kokani and Ors. .. Respondents

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- Mr. Ramesh D. Soni a/w. Mr. Vipinchandra Kasle i/by M/s. Ram & Co., Advocates for Appellants in Appeal from Order No. 106 of 2026.
- Mr. Ashish Kamat, Senior Advocate a/w. Mr. Rishi Soni, Mr. Sujay Gawade, Ms. Mudita Pawar & Ms. Mihika Save i/by M/s. Shree & Co., Advocates for Appellants in Appeal from Order No. 195 of 2026.
- Mr. Mohsin Mohammadali Sayyed, Advocate for Appellants in Appeal from Order (Stamp) No. 3321 of 2026 and for Respondent No. 6A in Appeal from Order No. 106 of 2026.
- Mr. Pradeep J. Thorat i/by Ms. Aditi S. Naikare, Advocate for Appellants in Appeal from Order (Stamp) No. 3367 of 2026.
- Mr. Alankar Kirpekar a/w. Mr. Shantanu Chandratre & Mr. Ayush Tiwari i/by Mr. Shantanu Chandratre for Respondent No. 1 in all four Appeals from Orders.
- Mr. Sagar Kasar a/w Mr. Rishabh Tiwari, Advocates for Respondent No. 14 in Interim Application No.603 of 2026, for Respondent No. 11 in Interim Application (Stamp) No.3369 of 2026 and for Respondent No. 13 in Interim Application (Stamp) No.3322 of 2026.
- Mr. Atul Damle, Senior Advocate i/by Mr. Somnath Kale for Respondent Nos. 21 to 23 in Appeal from Order No.106 of 2026.

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CORAM : MILIND N. JADHAV, J.

DATE : JUNE 08, 2026

P. C.:

1. Heard Mr. Soni, learned Advocate for Appellants in Appeal from Order No. 106 of 2026; Mr. Kamat, learned Senior Advocate for Appellants in Appeal from Order No. 195 of 2026; Mr. Thorat, learned Advocate for Appellants in Appeal from Order (Stamp) No. 3367 of 2026; Mr. Sayyed, learned Advocate for Appellants in Appeal from Order (Stamp) No. 3321 of 2026 and Mr. Kirpekar,

learned Advocate for Respondent No.1 in all four Appeals from Orders; Respondent No.6A in Appeal from Order No. 106 of 2026; Mr. Kasar, learned Advocate for Respondent No. 14 in Interim Application No.603 of 2026, for Respondent No. 11 in Interim Application (Stamp) No.3369 of 2026 and for Respondent No. 13 in Interim Application (Stamp) No.3322 of 2026; Mr. Damle, learned Senior Advocate for Respondent Nos. 21 to 23 in all four Appeal From Orders. Parties are referred to as Plaintiffs and Defendants for clarity.

2. Appeal from Order No.106 of 2026 is filed on 21.01.2026 by original Defendant Nos. 3(1) to 3(5), 4(A) to 4(E) and 26(A) to 26(E) to challenge the impugned order / judgment dated 16.10.2025 and 12.01.2026 passed by 9th Joint Civil Judge Senior Division, Nashik below Exhibit “383” in Regular Civil Suit No.1194 of 2012 seeking temporary injunction restraining Plaintiffs and Defendant Nos.1 to 17, 21, 23 to 47 in respect of properties bearing (i) Survey No.777 admeasuring 29 Acres 39 Gunaths, (ii) Survey No.778 admeasuring 15 Acres 2 Gunthas and (iii) Survey No.785 admeasuring 24 Acres 2 Gunthas situated at Nashik (for short “**suit properties**”) and from creating any third party rights / interest and from carrying out construction therein. Interim Application No.603 of 2026 is filed by Appellants for interim reliefs. Mr. Soni, learned Advocate appears for Appellants in Appeal from Order No.106 of 2026.

3. Appeal from Order No.195 of 2026 is filed on 02.02.2026 by original Defendant Nos. 40 and 42 to challenge the impugned order / judgment dated 12.01.2026 passed below Exhibit 383 in Regular Civil Suit No.1194 of 2012 seeking temporary injunction restraining Plaintiffs and Defendant Nos.1 to 17, 21, 23 to 47 from alienating suit properties and from creating any third party rights/ interest and from carrying out construction therein. Interim Application No.989 of 2026 is filed by Appellants for interim reliefs. Mr. Kamat, learned Senior Advocate appears for Appellants in Appeal from Order No. 195 of 2026.

4. Appeal from Order (Stamp) No.3321 of 2026 is filed on 03.02.2026 by original Defendant No. 6 to challenge the impugned order / judgment dated 16.10.2025 and 12.01.2026 passed by 9th Joint Civil Judge Senior Division, Nashik below Exhibit “383” in Regular Civil Suit No.1194 of 2012 seeking temporary injunction restraining Plaintiffs and Defendant Nos.1 to 17, 21, 23 to 47 from alienating suit properties and from creating any third party rights/ interest and from carrying out construction therein. Interim Application (Stamp) No.3322 of 2026 is filed by Appellants for interim reliefs. Mr. Sayyed, learned Advocate appears for Appellants in Appeal from Order (Stamp) No. 3321 of 2026.

5. Appeal from Order (Stamp) No.3367 of 2026 is filed on 23.02.2026 by original Defendant Nos.45 to 47 to challenge the impugned order / judgment dated 16.10.2025 and 12.01.2026 passed by 9th Joint Civil Judge Senior Division, Nashik below Exhibit “383” in Regular Civil Suit No.1194 of 2012 seeking temporary injunction restraining Plaintiffs and Defendant Nos.1 to 17, 21, 23 to 47 from alienating Suit properties and from creating any third party rights/ interest and from carrying out construction therein. Interim Application (Stamp) No.3369 of 2026 is filed by Appellants for interim reliefs. Mr. Thorat, learned Advocate for Appellants in Appeal from Order (Stamp) No. 3367 of 2026.

6. Respondent No.1 i.e. Original Defendant No.22 - Claimant in Counter Claim filed in Regular Civil Suit No.1194 of 2012, who preferred Application below Exhibit 383 is represented by Mr. Kirpekar in all four Appeals from Orders.

7. By consent of parties, all four Appeals from Orders heard finally and decided by this common order.

8. Briefly stated, on 11.05.1910, a registered Sale Deed qua the suit property was executed in favour of three brothers namely (i) Hussain Saheb Kokani; (ii) Abu Mohammed Kokani; and (iii) Ahmed Saheb Kokani, who are predecessors-in-title of Plaintiffs and

Defendants. On 17.11.1941, Registered Partnership Deed was executed between the three brothers and the Suit property came to be divided between them. On 23.11.1942, Mutation Entry No.3794 recorded the aforementioned partition. Disputes arose between the three brothers and a Suit being Regular Civil Suit No.380 of 1943 was filed by Hussain Saheb Kokani against his other two brothers for Partition and declaration of the Suit property.

8.1. On 10.05.1946, the dispute was referred to arbitration and by consent of all parties, a consent decree was passed identifying and defining the shares in the Suit property of all three brothers alongwith sketch / map annexed to the decree evidencing said partition. On 04.01.1947, Mutation Entry No.5021 recorded the aforementioned partition which was reflected in 7/12 extracts with sub-divided areas. On 03.02.1954, a second Mutation Entry No.6460 was recorded qua the suit properties alongwith the updated sub-division of areas.

8.2. After 56 years, on 30.10.2002, Special Civil Suit No.326 of 2002 which is now re-numbered as Regular Civil Suit No.1194 of 2012 is filed by Dulhanabi Malangsaheb Kokani who was Defendant No.10 in Regular Suit No.380 of 1943 (previous suit) for declaration and Partition. On 30.11.2002, Defendant No.22 filed her Written Statement in the said Regular Civil Suit No.1194 of 2012. On

28.04.2003, Dulhanabi Malangsaheb Kokani filed Application for interim relief which was rejected and said order was not challenged, hence it attained finality. On 30.11.2006, issues were framed by the Trial Court. Evidence is yet to begin till date.

8.3. On 24.01.2014/11.02.2014, original Defendant No.22 i.e. Respondent No.1 herein filed a Final Decree Application No.1 of 2014 for various reliefs with regard to the decree passed in the year 1946 in terms of the Award dated 10.05.1946 in Regular Civil Suit No.380 of 1943.

8.4. In the meanwhile, Original Plaintiff – Dulhanabi expired in 2012. On 21.12.2021, legal heirs of Dulhanabi Malangsaheb Kokani filed Applications below Exhibits 312 and 316 in Regular Civil Suit No.1194 of 2012 for deleting certain properties from the suit properties which had come to the share of Ahmed Saheb Kokani (one of the three original brothers). On 10.08.2022, original Defendant No.22 gave her “No Objection” to the aforementioned Applications filed below Exhibits Exhibits 312 and 316.

8.5. On 16.10.2025, Defendant No.22 filed Application below Exhibit 375 in Regular Civil Suit No.1194 of 2012 seeking permission from the Court to file Counter Claim in the pending Suit. On the very same day i.e. 16.10.2025 the said Application for filing of Counter

Claim was allowed by Trial Court with costs. Counter Claim is filed by Defendants No.22 below Exhibit 380 for administration, partition and for seeking separate share in the Suit properties and for declaration that the transactions / partition effected between other Defendants in respect of Suit properties are illegal and not binding on Defendant No.22. On the same day i.e. 16.10.2025, Defendant No.22 filed Application below Exhibit 383 for injunction restraining Defendant Nos.1 to 17, 21, 23 to 47 from alienating Suit properties or from creating any third party rights/ interest or from carrying out construction therein. The said Application for injunction came to be allowed ex-parte against the Defendant Nos.1 to 17, 21, 23 to 47.

8.6. On 12.01.2026, the order dated 16.10.2025 of injunction was confirmed. Hence the present Appeals from Orders by the affected parties.

9. Mr. Soni, learned Advocate appears for Appellants in Appeal from Order No.106 of 2026 and would submit that the impugned Orders dated 16.10.2025 and 12.01.2026 passed below Exhibit-383 are wholly unsustainable in law and on facts. He would submit that learned Trial Court itself recorded a finding that there was a prior partition between the three brothers who are predecessors-in-title to the parties i.e. (i) Hussain Saheb Kokani; (ii) Abu Mohammed Kokani; and (iii) Ahmed Saheb Kokani pursuant to Consent Award

dated 04.04.1946 and decree dated 10.05.1946 was passed in Regular Civil Suit No.380 of 1943. He would further submit that despite accepting that shares of the three branches were identified and earmarked, the Trial Court has erroneously granted a sweeping injunction even in respect of the properties belonging to the branches of the other two brothers - predecessors-in-title i.e. Abu Mohammed Kokani and Ahmed Saheb Kokani with which Defendant No.22 has admittedly no concern or nexus whatsoever. He would submit that Defendant No.22 and Claimant in Counter Claim belongs to the Hussain Kokani branch, and the injunction is granted on all properties of the three brothers which have no nexus to the claim of Defendant No.22, as she can claim and seek partition only of the properties belonging to the Hussain Saheb Kokani branch.

9.1. He would submit that partition effected under the Consent Award dated 04.04.1946 was acted upon for several decades by all branches and their respective legal heirs without any claim or objection whatsoever. He would submit that Mutation Entries were accordingly effected in the Revenue Records and separate subdivided portions were reflected in the 7/12 extracts in accordance with shares allotted to each branch. He would submit that extensive alienation, developments and creation of third-party rights have taken place pursuant to the said partition of 1946 and several portions of the

properties coming to the share of each branch are most of the lands are already developed and converted into non-agricultural lands and development is ongoing.

9.2. He would submit that learned Trial Court erred in disregarding the sketch/map annexed to the Award dated 04.04.1946 merely opining that it was not a Government demarcation. He would submit that there was never any dispute regarding the demarcation and identification of shares of the three branches and the said shares were accepted and acted upon by all parties over the years. He would submit that Defendant No.22 herself filed Final Decree Application No.1 of 2014 arising out of decree dated 10.05.1946 in Regular Civil Suit No.380 of 1943 wherein Court specifically observed that demarcation was already been completed as per the map annexed to the Award and her grievance, if any, can now be confined only to the share of the Hussain Saheb Kokani branch and cannot be extend to the properties coming to the share of the other two brothers.

9.3. He would submit that Defendant No.22 had also consented to Applications below Exhibits 312 and 316 filed for deletion of several properties from the Suit properties Schedule on the ground that those properties belonged exclusively to the other two branches and had already been alienated in favour of third parties. He would submit that having granted “No Objection” to such deletions

and also having accepted the alienation effected by the other branches, Defendant No.22 cannot now in 2025 – 2026 seek a blanket injunction restraining all three branches' legal heirs from dealing with their respective properties. He would submit that the Counter Claim filed by Defendant No.22 after a hiatus of 79 years from the date of Partition is clearly impermissible and it has infact enlarged the scope of the Suit and it seeks to reopen a partition and compromise decree which attained finality decades ago in 1946.

9.4. He would draw my attention to a very strong circumstance that in the interregnum, Defendant No.22 herself filed a Final Decree Application in the year 2014 in Regular Civil Suit No.380 of 1943 i.e. after a hiatus of 68 years stating that the said Consent Decree passed in the year 1946 was nothing but a preliminary decree. This Application was rejected by Court on 22.09.2025 holding that demarcation and identification of shares of the three predecessors-in-title of the parties to the Suit was already confirmed by the Arbitration Award dated 04.04.1946 and shares were already demarcated. He would submit that in such facts injunction could never have been granted to Defendant No.22 in her Counter Claim. Hence, this very fact supports the case of Appellants.

9.5. He would submit that none of the ingredients for grant of temporary injunction are made out by Defendant No.22 in Regular

Civil Suit No.1194 of 2012. He would submit that there is no *prima facie* case in favour of Defendant No.22 insofar as the Suit properties belonging to the two other branches i.e. Abu Mohammed Kokani and Ahmed Saheb Kokani branches are concerned. He would submit that balance of convenience is completely in favour of Appellants and third-party purchasers. He would submit that grave prejudice and irreparable loss would be caused if such blanket impugned order is allowed to be continued particularly when substantial third-party rights and development rights have already been created by the legal heirs of the other two branches.

9.6. He would submit that learned Trial Court in the first instance erred in allowing Application below Exhibit 375 seeking leave for filing Counter Claim by Defendant No.22 after a hiatus of 23 years of filing Regular Civil Suit No.1194 of 2012 despite she having filed her Written Statement in 2006 without raising any objections which is impermissible in law.

9.7. He would submit that learned Trial Court committed a serious error in extending the interim injunction to the Suit properties belonging to the other two branches despite recording the fact that Defendant No.22 claimed her rights only through the branch of Hussain Saheb Kokani branch. Hence, he would submit that the impugned order / judgment deserves to be quashed and set aside and

in any event the injunction, if at all, ought to be restricted only to the properties allegedly falling to the share of Hussain Saheb Kokani branch under the Award dated 04.04.1946 and decree dated 10.05.1946 with which Defendant No.22 is specifically concerned with.

10. Mr. Kamat, learned Senior Advocate appearing for Appellants in Appeal from Order No.195 of 2026 would submit that once the predecessors-in-title of the parties have entered into a Partition Deed dated 17.11.1941 followed by an Arbitration Award dated 04.04.1946 passed by consent of all the parties with a Court decree dated 10.05.1946, Defendant No.22 now after almost a long hiatus of 68 years cannot challenge the said Partition which has fructified over the years. He would submit that this very conduct of Defendant No.22 is impermissible and contrary to settled legal position. He would submit that there is/was never any dispute regarding identification of the shares of the three branches and the map annexed to the Award dated 04.04.1946 and infact the said shares were consistently accepted and acted upon by legal heirs of all three brothers.

10.1. He would submit that according to the Consent Decree, parties and their respective legal heirs accepted the demarcated properties and in the past 68 years have alienated and / or dealt with

and / or developed the same and nature of the original Suit properties / land is also changed over the years. He would submit that Defendant No.22 is solely concerned with the branch and share of properties coming to the Hussain Saheb Kokani branch despite which the Trial Court without considering the relevant material placed on record has granted blanket injunction restraining the legal heirs of the other two branches' from dealing with their respective properties which is totally impermissible and has infact enlarged the scope of the Suit and seeks to reopen a Partition and compromise decree which has attained finality decades ago.

10.2. He would submit that Application for filing of Counter Claim itself after Defendant No.22 consented to the Plaintiff's case in her Written Statement is wholly contrary to settled legal position. He would submit that Defendant No.22 filed Application for Counter Claim after a long hiatus of 23 years in the Suit filed in 2022 which clearly demonstrates her *malafide* intention.

10.3. He would submit that Defendant No.22 in 2014 filed Application for Final Decree No.1 of 2014 in terms of the Decree dated 10.05.1946 passed in Regular Civil No.380 of 1943 on the ground that it was a preliminary decree wherein the Court after hearing the Application concluded and held that demarcation of the suit properties was already completed on the basis of the sketch and/or map forming

part of the Award dated 04.04.1946. He would submit that Court clearly observed and held that the decree dated 10.05.1946 was fully executed and therefore there was no question of filing Execution Application for Final Decree with regard to the decree passed in the year 1946 which was already executed. He would submit that Court held that the relief prayed for by Defendant No.22 for her share in the property which came to the Hussain Saheb Kokani branch, was not the subject matter of the Final Decree Application and hence directed Defendant No.22 to take out separate appropriate proceedings.

10.4. He would submit that substantial portions of the suit properties, which were the subject matter of the partition effected under the decree dated 10.05.1946 in Regular Civil No. 380 of 1943 have already been independently dealt with by the respective branches of all three brothers viz; Hussain Saheb Kokani, Abu Mohammed Kokani and Ahmed Saheb Kokani for over 79 years and substantial third-party rights have also been created therein. He would submit that several properties have already been sold and re-sold and developed and, in fact, Plaintiff who stepped into the shoes of Dulhanabi (Original Plaintiff) i.e. husband of Defendant No.22 had alongwith Defendant No.22, from time to time consented to deletion of several properties from the Suit proceedings thereby acknowledging

and accepting the separate enjoyment and dealings by the respective branches in respect of their allotted share.

10.5. He would further submit that despite the aforesaid admitted position being specifically brought to the notice of the Trial Court, it has granted a blanket injunction in respect of all suit properties, including those admittedly falling to the share of Abu Mohammed Kokani and Ahmed Saheb Kokani, eventhough Defendant No. 22 claims her share only through the branch of Hussain Saheb Kokani. He would therefore submit that continuation of the impugned order would cause grave prejudice and irreparable loss not only to the Appellants and the heirs of Abu Mohammed Kokani and Ahmed Saheb Kokani but also to several *bonafide* third-party purchasers and Developers in whose favour registered conveyances have already been executed and whose developments are at an advanced stage. Hence, he would urge the Court to allow the present Interim Application and/or Appeal from Order in the interest of justice.

11. Mr. Sayyed, Advocate for appearing for Appellants in Appeal from Order (Stamp) No. 3321 of 2026 and for Respondent No.6A in Appeal from Order No. 106 of 2026 (who is Appellant No.1 in Appeal from Order (Stamp) No. 3321 of 2026) would submit that the partition of Suit property in 1946 between the three brothers, namely Hussain Saheb Kokani, Abu Mohammed Kokani and Ahmed

Saheb Kokani is an admitted position on record accepted both by Plaintiff as well as Defendant No.22 and most importantly even by the Court. He would submit that the Arbitration Award dated 04.04.1946 and the consequent Decree dated 10.05.1946 passed in R.C.S No.380 of 1943 specifically identified and demarcated the respective shares of all three branches on the basis of the map/sketch annexed to the Award. He would emphasize that the separate Suit properties demarcated between the three branches together with their Survey Numbers are also specifically recorded in paragraph No.9 of the impugned order below Exhibit-383. He would submit that his Appellants purchased their properties as bonafide purchasers for value from the branch of Abu Mohammed Kokani in the year 1988 eventhough they may belong to the Hussain Saheb Kokani branch and therefore, the properties belonging to the said branch stood completely distinct and separate from the branch of Hussain Saheb Kokani.

11.1. He would submit that Defendant No.22, who is the wife of the Plaintiff and the Counter Claimant in the Suit, has throughout admitted the 1946 partition and has claimed her alleged share only through the branch of Hussain Saheb Kokani. He would vehemently submit that the impugned order itself records that Defendant No.22 has no concern whatsoever with the branches of Abu Mohammed

Kokani and Ahmed Saheb Kokani. He would submit that in the Final Decree proceedings filed by Defendant No.22 after nearly eighty (80) years from the date of the partition decree (1946), the Court itself categorically recorded that shares of all the three brothers were already identified and finally demarcated in the map annexed to the Consent Award and Decree and therefore, the question of re-demarcation did not arise. The Court further observed that if Defendant No.22 had any grievance in respect of her alleged share coming to her through the branch of Hussain Saheb Kokani, she was required to adopt appropriate independent proceedings in respect thereof.

11.2. He would submit that despite recording the aforesaid findings and despite accepting that Defendant No.22 claimed only through the branch of Hussain Saheb Kokani, the Trial Court in absence of any pleadings or challenge by any party, proceeded to observe that demarcation of shares could not be relied upon merely because the same were not carried out by a Government authority. He would submit that such an observation of fact in 2025 of an incident of 1946 which is wholly *dehors* the pleadings and contrary to the admitted and settled position on record, particularly when the Award and Decree had attained finality long back and had been consistently

acted upon by all concerned parties for several decades cannot be accepted and countenanced.

11.3. He would further submit that members of all the three branches have over a prolonged period of time, extensively alienated, transferred and developed the properties which had fallen to their respective shares and several third-party rights have accordingly been created. He would submit that the 1946 partition has thus been fully acted upon and recognized by all concerned for decades together. He would submit that despite the admitted position that Defendant No.22 claimed only through the branch of Hussain Saheb Kokani, the impugned order erroneously included all properties belonging to the other two branches of Abu Mohammed Kokani and Ahmed Saheb Kokani thereby causing grave and serious prejudice to Appellants and unsettling vested and accrued rights created over several decades. He would therefore urge the Court to set aside the impugned order and allow the Appeals.

12. Mr. Thorat, learned Advocate for Appellants in Appeal from Order (Stamp) No. 3367 of 2026 would submit that in the Suit for administration of the Suit properties instituted on 16.10.2002, the present Appellants were initially impleaded therein as Defendant Nos.45 to 47. He would submit that after completion of pleadings and framing of issues on 15.11.2006, Respondent No.2 himself filed

Application below Exhibit-134 seeking deletion of the names of Appellants from the array of Defendants and the Respondent No.1, who is original Defendant No.22 expressly gave her “no objection” to such deletion. He would submit that by order dated 03.12.2007, the Trial Court deleted Appellants from the array of parties as also cause of action. He would further submit that subsequently the Respondent No.2 filed Application below Exhibit-199 seeking deletion of the properties owned by the present Appellants from the subject matter of the suit and even to the said application Respondent No.1, who is original Defendant No.22 gave her “no objection”. He would submit that by order dated 28.08.2012, the Trial Court deleted the properties owned by the Appellants from the subject matter of the Suit proceedings.

12.1. He would submit that despite the aforesaid admitted position and despite the Order of deletion having attained finality, Defendant No.22 after more than two decades after institution of the suit, filed a Counter Claim on 16.10.2025 against as many as 160 Defendants, most of whom were not even parties to the Original Suit proceeding. He would submit that the Counter Claim is filed after filing of Written Statement in the year 2002 and after framing of issues in the year 2006 and there is no explanation for the inordinate delay of more than twenty years in filing the said Counter Claim. He would

submit that the cause of action pleaded in the Counter Claim is wholly illusory and it is not maintainable in law after framing of issues unless due cause of action is explained and leave of the Court is obtained.

12.2. In support of the above submissions, Mr. Thorat has referred to and relied upon the decisions of the Supreme Court in the case of *Ashok Kumar Kalra Vs. Wing CDR. Surendra Agnihotri & Ors.*¹ and *Satyender and Others Vs. Saroj and Others*².

12.3. He would further submit that Application below Exhibit-383 seeking temporary injunction was itself wholly not maintainable against the present Appellants inasmuch as these Appellants had already been deleted from the Suit proceedings and their properties were also deleted from the Suit properties by consent orders passed much prior thereto. He would submit that even a bare perusal of the Application below Exhibit-383 would show that there are no pleadings or averments whatsoever against the present Appellants, though in the prayer clause the Appellants are sought to be included. He would submit that Defendant No.22 had herself consented to deletion of the Appellants as well as their properties and therefore no injunction Application in the Suit or Counter Claim could have been maintained against persons who were admittedly no longer parties to the Suit proceedings. He would submit that no *prima facie* case, balance of

¹ (2020) 2 SCC 394
² (2022) 17 SCC 154

convenience or irreparable loss was either pleaded or established against the Appellants, particularly after passage of more than twenty years from the institution of the Suit and after deletion of the Appellants and their properties from the Suit proceeding.

12.4. He would submit that the impugned order is *ex facie* contrary to the principles of natural justice inasmuch as the Appellants were never even served either with the Counter Claim or with the Application below Exhibit-383 and are now facing injunction. He would submit that since the Appellants stood deleted from the Suit proceeding in the year 2007 pursuant to orders passed with consent of Defendant No.22 herself, the Appellants had no knowledge whatsoever of the proceedings initiated subsequently. He would submit that despite the same, the Trial Court proceeded to pass an *ex parte* order dated 16.10. 2025 and thereafter confirmed injunction by the impugned order dated 12.01.2026 restraining the Appellants from alienating or dealing with properties which had already been deleted from the Suit proceedings He would therefore submit that the impugned order, having been passed against persons who were not parties to the proceeding and without affording any opportunity of hearing to them, is wholly unsustainable in law and deserves to be quashed and set aside

13. Mr. Kirpekar, learned Advocate appearing for Respondent No.1 (Defendant No.22) in all four (4) Appeals from Orders has made the following common submissions in reply:-

13.1. With regard to Appeal from Order No.106 of 2026, he would submit that the Suit properties bearing Survey Nos.777, 778 and 785 were originally purchased in the year 1910 by Hussain Saheb Kokani, Abu Mohammed Kokani and Ahmed Saheb Kokani from joint family business income after the demise of Ahmed Kadir Saheb Kokani in the year 1909 and admittedly no Partition by metes and bounds had taken place during their lifetime. He would submit that upon demise of all three brothers, the properties devolved upon all their legal heirs in accordance with Muslim Personal Law including several heirs such as Dulhanbi, Rabiyyabi, Abdul Razzak, Hasan Mohammed and others. He would submit that in the year 1941, Gulam Mohiyoddin Hussein Saheb Kokani, Kadir Saheb Abu Mohammed Kokani and Fakir Mohammed Ahmed Saheb Kokani attempted to divide the properties amongst themselves by executing Registered Partition Deed No.1906 of 1941 without recognizing the rights of the remaining legal heirs and thereafter instituted Civil Suit No.380 of 1943. He would submit that though a Consent Award and Decree came to be passed in the year 1946, the same merely allocated the properties branch-wise which never conclusively determined the individual shares of all legal heirs in

accordance with Muslim Personal Law. He would submit that the Arbitration Award was written in Modi Script and there was nothing to indicate that its contents were explained to the illiterate and *pardanashin* women such as Dulhanbi and Rabiya who had merely affixed thumb impressions thereon. He would submit that the decree and maps were inconsistent with the Revenue Records and Mutation Entries were thereafter recorded only in the names of Gulam Mohiyoddin Hussein Saheb Kokani, Kadir Saheb and Fakir Mohammed, thereby depriving several legal heirs of their lawful rights.

13.2. He would submit that upon learning about proposed alienations in the year 2002, Dulhanbi instituted Special Civil Suit No.326 of 2002 specifically contending that all Suit properties continued to remain joint and that persons whose names appeared in the Revenue Records were merely Trustees on behalf of all legal heirs. He would submit that several legal heirs and Defendants supported the case of Dulhanbi and admitted that Partition by metes and bounds had never taken place. He would submit that despite pendency of the suit, Plaintiffs and certain Defendants continuously alienated properties and deleted parties and properties from the Suit by filing *pursis* without following due procedure and without obtaining informed consent of Defendant No.22, who being a *pardanashin*

Muslim woman had never relinquished her rights. He would submit that even the Executing Court, while disposing Final Decree Application No.1 of 2014 by order dated 22.09.2025, observed that the parties were required to seek adjudication of their shares through substantive proceedings.

13.3. He would submit that in the aforesaid circumstances Defendant No.22 has rightly filed the Counter Claim in the pending suit itself in order to avoid multiplicity of proceedings and to protect her undivided share inherited by her through her mother Rabiya. He would submit that the Counter Claim was maintainable in view of continuing cause of action arising from continuous alienations and creation of third-party rights even during pendency of the suit and also because the plaint had undergone multiple amendments after framing of issues. He would submit that the Trial Court, after considering the discrepancies in the decree, maps and revenue records and after noting that rights of all legal heirs were never demarcated by metes and bounds, rightly exercised jurisdiction under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 and granted injunction so as to preserve the suit properties and protect the rights of all co-sharers pending adjudication and therefore no interference is warranted with the impugned order.

13.4. With regard to Appeal No.195 of 2026, he would submit that the Appellants therein are original Defendant Nos.40 and 42 in the Suit proceedings and it is an undisputed position that both had filed their Written Statements on 30.11.2002 below Exhibit-37 and Exhibit-39 respectively. He would submit that in the said Written Statements, Defendant Nos.40 and 42 specifically admitted the case of the original Plaintiff Dulhanbi and categorically stated that the averments contained in paragraph Nos.1 to 16 of the plaint were true and legal. He would submit that these Appellants derive their rights through their father Rehman from the branch of Abu Mohammed Kokani and not from the branch of Hussain Saheb Kokani and their own admissions clearly establish that the Consent Decree of 1946 had failed to conclusively determine the rights of all legal heirs by metes and bounds. He would submit that paragraph No.11 of the plaint specifically pleaded that all alienations, transfers and mutation entries in respect of the Suit properties were illegal and liable to be cancelled and the said averments are expressly admitted by Defendant Nos.40 and 42. He would submit that having made such categorical admissions before the Trial Court, the Appellants are now estopped from raising any contention contrary thereto and cannot contend that subsequent alienations and transfers in favour of third parties without partition by metes and bounds are legal and binding.

13.5. He would submit that like Defendant No.22, the Appellants themselves admitted that Suit properties were never partitioned and administered in accordance with Muslim Personal Law amongst the heirs of Hussain Saheb Kokani, Abu Mohammed Kokani and Ahmed Saheb Kokani and therefore any stand contrary to such admissions is now wholly impermissible in law. He would submit that the Appellants are simultaneously approbating and reprobating by taking contradictory stand before this Court at the behest of the Plaintiff and subsequent purchasers/developers. He would submit that no prejudice whatsoever is caused to these Appellants by virtue of filing the Counter Claim or injunction granted by Trial Court, inasmuch as the same merely protects the Suit properties from further alienations pending adjudication of rights. He would submit that in fact it is in the interest of these Appellants that the Suit properties and their alleged shares are protected till final adjudication and partition by metes and bounds and therefore present Appeal deserves to be dismissed.

13.6. With regard to Appeal from Order (St) No.3321 of 2026, he would submit that the Appellant is original Defendant No.6 and admittedly belongs to the branch of Hussain Saheb Kokani from which branch the present Defendant No.22 also derives her rights. He would submit that the Appellant is the brother of Jainabi Mard Gulam

Hussain, who along with Gulam Gaus Razzak Kokani purportedly sold the entire land admeasuring 17 Acres 61 Gunthas belonging to the branch of Hussain Saheb Kokani in favour of Thakkar Developers and others, being original Defendant Nos.45 to 47. He would submit that the said transaction is *ex facie* illegal and void inasmuch as neither Jainabi nor Gulam Gaus Razzak Kokani had any exclusive authority to alienate the entire land belonging to the branch of Hussain Saheb Kokani without consent or partition amongst the remaining legal heirs. He would submit that Jainabi and Gulam Gaus Razzak Kokani had taken undue advantage of the fact that only the name of Gulam Mohiyoddin Hussein Saheb Kokani was reflected in the revenue records in respect of the undivided properties belonging to the branch of Hussain Saheb Kokani. He would submit that the Suit instituted by Dulhanbi in the year 2002 specifically sought declaration that all transfers, agreements and alienations pertaining to the Suit properties are illegal, void and liable to be set aside and Defendant No.22 had throughout supported the said case.

13.7. He would submit that mere deletion of parties under Order I Rule 10 of the Code of Civil Procedure, 1908 or deletion of certain properties from the Suit proceedings cannot validate transfers which are *ex facie* illegal nor can the same prevent the Trial Court from protecting the Suit properties during pendency of the Suit

proceeding. He would submit that even according to Appellants, the properties purchased from members of other branches were acquired from monies generated through sale of properties belonging to the branch of Hussain Saheb Kokani and therefore all such properties are also required to be protected from further alienation pending adjudication of rights. He would submit that the Trial Court has rightly exercised jurisdiction in granting injunction in order to avoid multiplicity of proceedings, preserve the Suit properties, safeguard the interests of co-sharers and third-party purchasers and ensure effective adjudication of the disputes involved and therefore no interference is warranted with the impugned order.

13.8. With regard to Appeal from Order (St) No.3367 of 2026, he would submit that the Defendant No.22 is one of the descendants in the branch of Hussain Saheb Kokani. He would submit that though a compromise decree dated 10.05.1946 pursuant to Arbitral Award dated 04.04.1946 came to be passed in Regular Civil Suit No.380 of 1943, the alleged partition was never effected by metes and bounds through any expert survey, government demarcation or authenticated map. He would submit that the so-called partition was based merely upon a rough sketch annexed to the compromise decree and the exact measurements, boundaries and locations of the Suit properties were never identified on site. He would submit that even the areas

mentioned in the compromise decree and those reflected in the map annexed thereto were inconsistent with each other. He would submit that the said Partition was not in accordance with Muslim Law and all legal heirs of the three branches were neither parties to the proceedings nor signatories to the Arbitral Award.

13.9. He would submit that serious discrepancies exist in the maps as well as in the revenue records pertaining to the Suit properties. He would submit that although the compromise decree in R.C.S. No.380 of 1943 reflected the names and shares of several branch members including Gulam Mohiyoddin Hussein Saheb Kokani, Abdul Razzoq, Ladali, Rabi, Sahebabi and Dulhanbi, while implementing the same only the name of Gulam Mohiyoddin Hussein Saheb Kokani and Abu Mohammed Kokani was entered in the revenue records. He would submit that the Trial Court has rightly observed that the maps and shares reflected in the compromise decree were ex facie dubious and inconsistent with the revenue records and the maps produced by the Appellants themselves. He would submit that the map annexed to the award was not prepared by any Government authority and did not even contain names or proportions of the shares of all parties. He would submit that the Arbitral Award itself records that it was passed in the presence only of those parties who remained present before the Arbitrator and therefore the same cannot bind all legal heirs

of the three branches. He would submit that it was in these circumstances that the Plaintiff Dulhanbi instituted the Suit seeking partition by metes and bounds and administration of the Suit properties.

13.10. He would submit that Final Decree Application No.1 of 2014 filed for implementation of the compromise decree was disposed of by order dated 22.09.2025 on the ground that the issues raised therein were in the nature of a substantive Partition dispute which could not be adjudicated in Execution proceedings. He would submit that the said order itself recorded that parties were required to adopt appropriate independent proceedings for adjudication of their respective shares. He would submit that since the present suit instituted in the year 2002 was already pending, Defendant No.22 has rightly filed the Counter Claim seeking determination and protection of her lawful share. He would submit that the Counter Claim cannot be said to be barred merely because issues were earlier framed, particularly when the Plaint itself had undergone amendments from time to time till the year 2025 thereby necessitating filing of additional pleadings and reframing of issues. He would submit that the Counter Claim was therefore maintainable and rightly entertained by the Trial Court.

13.11. He would submit that the Appellants were fully aware of the proceedings before the Trial Court and cannot now contend breach of principles of natural justice. He would submit that Defendant No.22 had issued public notices regarding the ad-interim injunction order and pendency of the litigation and that the said public notice was replied to by the present Appellants through their Advocate on 03.11.2025. He would submit that despite having full knowledge of the proceedings, Appellants deliberately chose not to appear before the Trial Court and therefore now cannot assail the impugned order on the ground of want of hearing. He would submit that the so-called “no objection” relied upon by the Appellants was never personally instructed by Defendant No.22, who is a *pardanashin* Muslim woman and the Advocate engaged at the relevant time had been appointed through her husband. He would submit that even otherwise the alleged “no objection” was expressly without prejudice to the rights and contentions of Defendant No.22 and therefore cannot operate as a waiver of her substantive legal rights.

13.12. He would submit that the Trial Court has rightly protected the suit properties during pendency of the proceedings inasmuch as continuous alienations and creation of third-party rights were taking place over the years. He would submit that the Appellants themselves claim through members of the original family and therefore their

rights remain subject to final adjudication of the shares of all legal heirs in accordance with Muslim Law. He would submit that the partition contemplated under the Arbitral Award has never crystallized the rights of each individual legal heir by metes and bounds and consequently all Suit properties continue to retain the character of undivided properties requiring protection till final adjudication. He would submit that the Trial Court has correctly observed that from the year 2002 onwards, parties were continuously being added and deleted and properties were being alienated through compromise pursis, thereby frustrating effective adjudication of the dispute. He would submit that the impugned order therefore safeguards not only the rights of all legal heirs but also interests of innocent third-party purchasers and investors and hence no interference is warranted with the impugned order passed by the Trial Court.

13.13. In support of his above submissions, Mr. Kirpekar has referred to and relied upon the following decisions of this Court and Madras High Court:- *(i) Anwar Liyakat Khan and Another Vs. Ramesh Dattatraya Dhone and Others*³ *(ii) K. Alladurai Vs. Mrs. Pankaja and Others*.⁴ and *(iii) Kashinath Ramji Shinde (died through legal heirs) Sumanbai w/o Kashinath Shinde and Others*⁵

3 Writ Petition No.9309 of 2024 decided on 09.06.2025

4 CRP No.908 of 2025 decided on 14.08.2025

5 Writ Petition No.12195 of 2024 decided on 20.04.2026

14. Mr. Kasar, learned Advocate appearing for Respondent No. 14 in Interim Application No.603 of 2026, for Respondent No. 11 in Interim Application (Stamp) No.3369 of 2026 and for Respondent No. 13 in Interim Application (Stamp) No.3322 of 2026 would adopt the submissions made by Mr. Kirpekar, learned Advocate for Defendant No.22 which are not repeated and reiterated herein for brevity and submit that Trial Court has rightly exercised jurisdiction under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 in protecting the suit properties pending adjudication of the rights of the parties. He would submit that the material on record clearly demonstrates that the rights of all legal heirs were never conclusively determined by metes and bounds and that continuous alienations and creation of third-party rights during pendency of the suit are likely to frustrate the very object of the Suit proceeding.

14.1. He would submit that the impugned order merely preserves status quo so as to protect the interest of all co-sharers and innocent third-party purchasers till final adjudication of the Suit and Counter Claim. He would submit that balance of convenience is rightly held to be in favour of grant of injunction and no irreparable prejudice would be caused to the Appellants by continuation of the impugned order. He would therefore submit that the Interim Applications as well as the Appeals from Orders deserve to be dismissed.

15. Mr. Damle, learned Senior Advocate appearing for Respondent Nos. 21 to 23 in Appeal from Order No.106 of 2026 would adopt the submissions made by Mr. Kirpekar, learned Advocate for Defendant No.22 which are not repeated and reiterated herein for brevity and submit that the Trial Court, upon considering the material placed on record, has rightly recorded *prima facie* findings regarding the discrepancies in the alleged partition, the inconsistencies in the revenue records and the absence of partition by metes and bounds *qua* all legal heirs. He would submit that the injunction granted by Trial Court is purely protective in nature and intended to preserve the Suit properties pending final adjudication of the rights of the parties.

15.1. He would submit that the conduct of the parties in continuously alienating properties and creating third-party interests during pendency of the proceedings has fully justified the exercise of discretion by Trial Court in granting interim protection. He would therefore submit that no case for interference with the discretionary order passed by the Trial Court is made out in Appellate jurisdiction, particularly having regard to the settled principles governing injunction and injunctive relief.

16. I have heard learned Senior Advocates and Advocates at the bar for the respective parties and with their able assistance perused the record of the case. Submissions made by the learned

Senior Advocates and Advocates have received due consideration of the Court.

17. At the outset it is seen that the Suit properties originally belong to the predecessors-in-title namely Hussain Saheb Kokani, Abu Mohammed Kokani and Ahmed Saheb Kokani and admittedly disputes *inter se* between the three branches culminated into a Consent Award dated 04.04.1946 followed by a Compromise Decree dated 10.05.1946 passed in Regular Civil Suit No.380 of 1943. It is further seen that Mutation Entries Nos.5021 and 6460 were effected pursuant thereto and separate portions of the Suit properties were reflected in the Revenue Records and 7/12 extracts duly supported by maps and plans appended to the Consent Award. Needless to state that the said arrangement has continuously been acted upon for several decades since 1946 by legal heirs of all concerned branches. This is the admitted position until 2022 when the Suit is filed by Dulhanbi, one of the signatory to the Consent Award after 56 years seeking partition. It is also seen that several alienations, developments and creation of third-party rights have taken place over the years on the basis of 1946 Partition arrangement. Further admittedly, Defendant No.22 who belongs to one particular branch has filed her Counter Claim after 79 years for the same relief. s

18. The Trial Court despite recording the existence of the Consent Award and decree and despite noticing that separate branches had independently enjoyed and dealt with their allotted portions for several decades as per the 1946 Partition has proceeded to hold that the demarcation could not be relied upon because the sketch/map annexed to the Compromise Award was not prepared by a Government authority. I am of the considered opinion that such reasoning is *prima facie* unsustainable and illegal especially to be arrived at after 79 years in a Suit filed with gross delay and laches. Once a Consent Award and decree had attained finality and parties thereto had consistently acted thereupon for nearly eight decades, the Trial Court could not have disregarded the legal effect of such strong circumstance and merely on the ground that the map annexed to the Award of 1946 was not prepared by a Government surveyor pass a sweeping injunction in regard to all Suit properties. It is seen that the said Award and Compromise Decree have never been set aside by any competent Court. It is further seen that the parties themselves have throughout relied upon the said decree and acted in terms thereof. Needless to state that the implementation of the decree stood accepted and recognized for decades by corresponding Revenue entries certified and effected since decades.

19. It is significant to note that Defendant No.22 herself previously instituted Final Decree Application No.1 of 2014 on the same cause of action seeking implementation of the very same Compromise Decree passed in Regular Civil Suit No.380 of 1943. It is seen that while disposing of the said proceeding, the Court specifically recorded shares of the three branches had already been identified and demarcated in accordance with the sketch/map annexed to the Compromise Award and therefore the question of re-demarcation did not arise. The Court further observed that if Defendant No.22 had any grievance regarding her alleged share, the same was confined only to the branch of Hussain Saheb Kokani and appropriate independent proceedings could be adopted by her in that regard. Needless to state that Defendant No.22 cannot now be permitted to approbate and reprobate by adopting a stand contrary to the position taken by her in the earlier Final Decree proceeding and now seek injunction regarding all Suit properties belonging to the heirs in the other two branches.

20. It is further seen that Defendant No.22 has throughout accepted that her alleged claim pertains only to the branch of Hussain Saheb Kokani and that she has no concern whatsoever with the branches of Abu Mohammed Kokani and Ahmed Saheb Kokani. Despite this position, the Trial Court has granted a sweeping injunction restraining dealings even in respect of properties admittedly

falling to the shares of Abu Mohammed Kokani and Ahmed Saheb Kokani. In so far as the properties belonging to the other two branches are concerned, no *prima facie* case whatsoever was demonstrated by Defendant No.22 before the Trial Court. Hence such a blanket injunction affecting properties, parties and third-party rights passed after 79 years having no nexus whatsoever with the alleged claim of Defendant No.22 is wholly excessive and contrary to settled principles governing grant of temporary injunction. It is also seen that several portions of the Suit properties have already been alienated, developed and converted into non-agricultural lands and substantial third-party rights have come into existence over the past several decades which are disturbed by the interim order under challenge.

21. In so far as Appellants in Appeal from Order (Stamp) No.3367 of 2026 are concerned, it is seen that the said Appellants stood deleted from the array of parties to the very same Suit by order dated 03.12.2007 and their properties were also subsequently deleted from the array of Suit properties in the Suit proceedings by order dated 28.08.2012. It is further seen that Defendant No.22 had expressly granted “No Objection” to such deletions. Once the said orders attained finality and the parties and their properties stood deleted from the Suit proceedings, no injunction whatsoever could thereafter have been granted against the very same parties in the

absence of any subsisting pleadings or cause of action against them. Needless to state that the impugned order insofar as it affects such deleted parties and their properties is concerned is clearly contrary to settled principles of natural justice as it is passed without ever hearing them.

22. It is also seen that the Counter Claim filed by Defendant No.22 came to be instituted on 16.10.2025 i.e. after nearly twenty-three (23) years after filing of her own Written Statement and almost nineteen (19) years after framing of issues. No satisfactory explanation is forthcoming for such extraordinary and unexplained delay from Defendant No.22 in this regard. The Counter Claim substantially enlarges the scope of the Original Suit and virtually seeks to reopen the Partition effected and continued under the Consent Award and decree of 1946 which has admittedly attained finality and has stood acted upon for several decades crystalising the rights of the parties.

23. It is also surprising to note that all material events giving rise to the impugned proceedings and order transpired on one single day i.e. 16.10.2025 itself. It is seen that on the said date Defendant No.22 first preferred an Application below Exhibit-375 seeking leave to file Counter Claim after nearly twenty-three (23) years from filing of the Written Statement and almost nineteen (19) years after framing of issues and the said Application itself came to be allowed on the very

same day without any reasons. It is further seen that immediately thereafter Defendant No.22 filed the Counter Claim below Exhibit-380 and simultaneously filed Application below Exhibit-383 both on same day seeking sweeping interim injunction against several parties including persons who had long back been deleted from the Suit proceedings and also third parties who were not even impleaded in the Original Suit proceedings as parties. It is also seen that on the very same day i.e. 16.10.2025 the learned Trial Court proceeded to grant an ex-parte injunction restraining the parties from alienating, transferring or creating third-party rights in respect of the Suit properties. Though the said ex-parte order subsequently came to be confirmed on 12.01.2026 after hearing the parties, it is needless to state that the sequence and manner in which all these events transpired on 16.10.2025, particularly in a Suit pending since the year 2002, assumes significance while examining the legality, propriety and correctness of the impugned order.

24. The submissions advanced on behalf of Defendant No.22 that the decree of 1946 never conclusively determined the rights of all legal heirs by metes and bounds and that the Suit properties continue to remain joint and undivided, do not *prima facie* merit acceptance at this interlocutory stage considering the aforesaid observations and findings emanating from the record *prima facie*. It is seen that the

conduct of parties over several decades, certification of mutation entries in the Revenue records, separate enjoyment of portions by respective branches, alienations, developments and creation of third-party rights all *prima facie* indicate that the Partition arrangement stood clearly acted upon and accepted by all concerned parties for decades together. Needless to state that whether individual heirs may have *inter se* disputes within their respective branches is a distinct issue altogether and cannot furnish a basis to restrain dealings in properties belonging even to other branches with which Defendant No.22 admittedly has no concern.

25. The Trial Court while exercising jurisdiction under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 was required to examine whether Defendant No.22 had established a *prima facie* case, balance of convenience and irreparable loss. However, it is seen that the Trial Court travelled beyond the limited scope of interim jurisdiction and virtually unsettled a longstanding partition arrangement which had remained acted upon for decades. It is also seen that extensive third-party rights and development rights have already come into existence and continuation of the injunction would cause serious prejudice not only to the Appellants but also to *bonafide* purchasers and developers. Needless to state that interim relief cannot be granted in a manner which would unsettle

longstanding and accepted arrangements particularly at the instance of a party who herself had accepted and acted upon the earlier decree for years together.

26. I am of the considered opinion that the Appellants have made out a strong *prima facie* case warranting interference with the impugned orders. The balance of convenience overwhelmingly lies in favour of the Appellants and irreparable prejudice would be caused if the injunction is permitted to continue in the above facts and circumstances. On the contrary, if Defendant No.22 ultimately succeeds in establishing any lawful entitlement, appropriate reliefs in accordance with law can always be moulded at the stage of final adjudication. Hence, no case whatsoever is made out for continuation of the sweeping injunction order granted by the learned Trial Court.

27. Appeal from Order No.106 of 2026, Appeal from Order No.195 of 2026, Appeal from Order (Stamp) No.3321 of 2026 and Appeal from Order (Stamp) No.3367 of 2026 are allowed. The impugned orders dated 16.10.2025 and 12.01.2026 passed below Exhibit-383 by the learned 9th Joint Civil Judge Senior Division, Nashik in Regular Civil Suit No.1194 of 2012 are quashed and set aside. Application below Exhibit-383 filed by original Defendant No.22 seeking temporary injunction stands rejected.

28. Interim Application No.603 of 2026, Interim Application No.989 of 2026, Interim Application (Stamp) No.3322 of 2026 and Interim Application (Stamp) No.3369 of 2026 stand disposed of accordingly. Needless to state that all observations made herein are *prima facie* and confined to adjudication of the present Appeals from Orders and the learned Trial Court shall decide the Suit and Counter Claim independently on evidence and evidence-in-rebuttal in accordance with law on their own merits uninfluenced by any observations made in this order. All contentions of parties in the Suit proceedings are otherwise expressly kept open.

[MILIND N. JADHAV, J.]

29. After the order is pronounced, Mr. Kirpekar, learned Advocate for Defendant No. 22 persuades the Court to stay the order to test its legality and validity before the Supreme Court. I have considered his request. However in view of the strong facts and circumstances which are stated in the above order, I am not inclined to accept the said request. Hence, the request for stay is rejected.

Ajay

[MILIND N. JADHAV, J.]

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