

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION**

**APPEAL NO.118 OF 2025  
ALONG WITH  
INTERIM APPLICATION NO.7621 OF 2025  
IN  
INTERIM APPLICATION NO.1648 OF 2024  
IN  
SUIT NO.3197 OF 2008**

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Jaya Talakshi Chheda,  
(Mother of deceased Hitesh Suresh Bhagat),  
R/o. Ghatkopar (East), Mumbai

] **..Appellant/  
Applicant  
Org. Def. No.2**

***Versus***

1. Hitesh Suresh Bhagat  
(Since Deceased), through Defendant No.2
2. Suhas Mahadeo Roge,  
R/o. Ghatkopar (East), Mumbai
3. Life Insurance Corporation of India,  
Dombivali, Thane
4. Punjab National Bank,  
Worli Branch, Mumbai
5. Bank of India,  
Worli Naka Branch, Mumbai
6. Union of India,  
Through Worli Post Office, Worli, Mumbai
7. Vandana Ramesh Mota,  
R/o. Worli, Mumbai
8. Jayantilal Kalyanji Bhagat,  
R/o. Worli, Mumbai
9. Vinod Kalyani Bhagat,  
R/o. Tardeo, Mumbai
10. Tanuja Jayantilal Bhagat,  
R/o. Worli, Mumbai
11. Sahaj Developers,  
Having Regd. Off. at Valsad
12. Bipinchandra Bawabhai Patel,  
Partner of M/s. Sahaj Developers, Valsad
13. Vipulkumar Narendrabhai Naik,  
R/o. Umargam, Dist. Valsad

] **..Respondents**

Dr. Veerendra Tulzapurkar, Senior Advocate, with Mr. K.T. Kukreja, Ms. Snehal Patel and Ms. Chandni Sabnani, i/by Mr. Devang Shah, Advocates for the Appellant.

Mr. Arshad Shaikh, Senior Advocate, with Mr. Devansh Malhotra, Advocate for Respondent No.10.

**CORAM : SHREE CHANDRASHEKHAR, CJ. &  
GAUTAM A. ANKHAD, J.**

**DATE : 7<sup>TH</sup> APRIL 2026.**

**Per, Shree Chandrashekhar, CJ.**

A preliminary objection has been taken on behalf of the respondent no.10 on the ground that this appeal shall not lie against the order dated 29<sup>th</sup> September 2025, adjourning the proceedings *sine die* in Suit no.3197 of 2008 and Testamentary Suit no.100 of 2011.

2. Mr. Arshad Shaikh, the learned senior counsel for the respondent no.10 would refer to section 104 of the Code of Civil Procedure, 1908 and submits that an appeal shall lie from the orders which are expressly provided by the Code or in law for the time being in force but not from any other orders. According to the learned senior counsel for the respondent no.10, an order adjourning all proceedings *sine die* in Suit No.3197 of 2008 and Testamentary Suit no.100 of 2011 shall not fall under such category. Elaborating upon the same, the learned senior counsel for the respondent no.10 would further submit that clause (s) of Rule 1 under Order 43 of the Code shall not cover an order adjourning the proceedings *sine die*.

3. Dr. Veerendra Tulzapurkar, the learned senior counsel for the appellant has, however, submitted that the objection raised on

behalf of the respondent no.10 cannot be countenanced in law inasmuch as the respondent no.10 also filed an application under Order 40 Rule 1 of the Code which now stands adjourned *sine die*.

4. As we would gather on a glance at different clauses under Rule 1 Order 43 of the Code, there is a mention of certain orders against the rejection or acceptance of which an appeal shall lie. As indicated under clause (s) of Rule 1, any order passed under Rule 1 or Rule 4 of Order 40 of the Code shall be appealable under Rule 1 of Order 43 of the Code. While so, the preliminary objection raised on behalf of the respondent no.10 is rejected.

5. This appeal is filed against the order dated 29<sup>th</sup> September 2025 passed in Notice of Motion No.1827 of 2019 in Suit No.3197 of 2008 with Interim Application No.3314 of 2024 in the said Suit. It further appears that there were other Interim Applications and Contempt Petitions which were listed on 29<sup>th</sup> September 2025 when a learned Single Judge of this Court held that all proceedings in Suit No.3197 of 2008 and Testamentary Suit No.100 of 2011 are required to be adjourned *sine die* or at least till a decision is rendered in Criminal Appeal no.968 of 2013. This order was passed by Single Judge on an understanding of the order passed by the Hon'ble Supreme Court in Special Leave Petition (C) No.4152 of 2019 filed by the respondent no.10, namely, Tanuja Jayantilal Bhagat, who was aggrieved by an order passed on 17<sup>th</sup> December 2018 in Chamber Summons (Testamentary) No.86 of 2017 with Notice of Motion (Appeals)

(Lodging) No.2019 of 2017<sup>1</sup>, filed in Appeal No.358 of 2017. By the order dated 17<sup>th</sup> December 2018, the plaintiff in Testamentary Suit was directed to amend the Testamentary Suit by deleting the name of “Hitesh Suresh Bhagat” (*since deceased*) and to substitute him with his mother who was his only legal heir and representative. The plaintiff in the suit was further directed to get the Citation issued through the Court against the appellant, namely, Jaya Talakshi Chheda within a period of four weeks. It seems that the Hon’ble Supreme Court did not interfere with the said order and a direction was issued for expeditious hearing of Criminal Appeal No.968 of 2013. The order dated 25<sup>th</sup> February 2019 reads as under:-

*“Heard counsel for the parties.*

*Applications for exemption from filing certified copy of the impugned order and from filing official translation are allowed.*

*We dispose of this special leave petition with a request to the High Court to first take up the Criminal Appeal No.968 of 2013 for final hearing as expeditiously as possible.*

*It will be open to the parties in this Special Leave Petition to request the High Court to assign an early date for hearing of Criminal Appeal No.968 of 2013.*

*We are giving this indulgence to the parties keeping in mind the peculiar facts of this case, as the proceedings pending between the parties in the form of Suit No.3197 of 2008 and Testamentary Suit No.100 of 2011 in the High Court ought to proceed only after a final decision is rendered in the stated criminal appeal.*

*After the criminal appeal is finally disposed of, it will be open to the parties to request the High Court to take up the civil suit and the testamentary proceedings for further hearing. The same be decided in accordance with law expeditiously.”*

6. When Notice of Motion No.1827 of 2019 and Interim Application Nos.2952 of 2022 and 5147 of 2022 with Contempt Petition No.14 of 2023 were listed before the Court, a learned Single Judge of this Court expressed an opinion that the parties may seek clarification from the Supreme Court presumably in

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<sup>1</sup> *Jaya Talakshi Chheda v. Tanuja Jayantilal Bhagat & Ors.*

view of the order dated 25<sup>th</sup> February 2019 passed in Special Leave Petition (C) No.4152 of 2019. It further appears that the appellant approached the Hon'ble Supreme Court in Miscellaneous Application No.898 of 2024 filed in Special Leave Petition (Civil) No.4152 of 2019 and the said Application was disposed of by an order dated 10<sup>th</sup> May 2024 by the Hon'ble Supreme Court observing that there was no reason to clarify the order dated 25<sup>th</sup> February 2019 as the order itself is very clear.

7. It is in the aforementioned factual background that the order dated 29<sup>th</sup> September 2025 came to be passed by Single Judge while dealing with the Interim Applications filed by both the parties. This is the order passed in the Interim Applications etc. which is challenged in the present Appeal.

8. On 12<sup>th</sup> March 2026, the following order was passed in the present proceedings:

*“Both the parties are directed to file a short synopsis along with a chart giving particulars and present status of the proceedings initiated by them against each other. The parties shall disclose, by way of a separate statement, the details of all assets disposed of by them to date, as well as a comprehensive list of the assets presently in their possession or control. Both sides are directed to exchange the synopsis and the table by 24<sup>th</sup> March 2026.*

*Post the matter on 26<sup>th</sup> March 2026.”*

9. The order dated 12<sup>th</sup> March 2026 was followed by an order passed on 26<sup>th</sup> March 2026 directing the parties to exchange the list of properties as indicated in the previous order of this Court. The learned senior counsel for the appellant has tendered the list of properties disclosing the possession of the parties over the properties which are the subject matter of Suit No.3197 of 2008 and Testamentary Suit No.100 of 2011. The list of properties vide Exhibit “B” is taken on record. According to the appellant,

following are the details of the properties in possession of the parties or disposed of by the respondent no.10:-

EXHIBIT “B”

PART “I”

1. A plot of land and the structure standing thereon shops at Suresh Sadan Dr. G. M. Bhole Road admeasuring about 10,000 sq.ft. approx. situated at Worli Naka. The said Suresh Sadan Building has several shops with several licensees who pay license fees to Respondent No.10 – Tanuja. *(In possession of Respondent No.10 – Tanuja)*
2. Shop Nos.32,41,46/47 at Panchratna building, Opera House, Mumbai 400 004 and collects license fees. *(In possession of Respondent No.10 – Tanuja)*
3. Farm House admeasuring about 23 (not 77) acres at National Highway No.8 at/post-Dhamachiwadi Valsad, *(In possession of Respondent No.10 – Tanuja)*
4. Piece and parcel of Agricultural Land about 11 Acres situated at village Ratadiya Ganeshwala, Taluka Mundra, District Kutch.

| Sr. No. | Survey No. | Admeasuring                   |
|---------|------------|-------------------------------|
| (i)     | 81         | 2.02.34 (hectare/acre/sq.mt.) |
| (ii)    | 82         | 2.00.19 (hectare/acre/sq.mt.) |
| (iii)   | 105/2      | 0.69.81 (hectare/acre/sq.mt.) |
| (iv)    | 105/3      | 0.51.60 (hectare/acre/sq.mt.) |

5. A Farm House consisting of about 21 acres (not 70 acres) agricultural and known as S.K. Bhagat Palika at Virania, Taluka Mundra, Kutch/Piece and parcel of Agricultural land situate at Village Varaniya Taluka, Mundra, Dist Kutch.

| Sr. No. | Survey No.   | Admeasuring                   |
|---------|--------------|-------------------------------|
| (i)     | 99/1         | 0.82.96 (hectare/acre/sq.mt.) |
| (ii)    | 101/Paki 1   | 2.69.12 (hectare/acre/sq.mt.) |
| (iii)   | 103          | 1.52.77 (hectare/acre/sq.mt.) |
| (iv)    | 142/3/Paki 1 | 0.94.09 (hectare/acre/sq.mt.) |
| (v)     | 148/3        | 1.12.30 (hectare/acre/sq.mt.) |
| (vi)    | 149/Paki 1   | 1.58.84 (hectare/acre/sq.mt.) |
| (vii)   | 129/1        | 4.37.06 (hectare/acre/sq.mt.) |

6. Four Shops in Valsad, being Shop Nos.3, 4, 5 & 6 admeasuring 250 sq.ft. each, situate at Valsad District, Cricket Association ground, Valsad Nagar Palika, Stadium Road, Valsad. *(Surrendered to landlord and in possession of landlord)*

## PART “II”

1. Kalyan Hotel a running Hotel at Sabne Road, Mahableshwar, bearing C.S.T. No.16, admeasuring about 274.2 sq.mtrs and C.T.S. No.16/1 admeasuring about 25.9 sq.mtrs at Taluka Vai District Satara. *(In possession of Suhas Mahadeo Roge, Respondent No.2)*
2. Another piece and parcel of land admeasuring about 426.43 sq.mtrs. bearing C.T.S. No.23 at Sabne Road, Mahableshwar, Taluka Vai, District Satara DMS. *(In possession of Suhas Mahadeo Roge – Respondent No.2)*
3. Farm House admeasuring about 30 acres with factory viz, Bhagat Paper & Board Mill at National Highway No.8, At & Post Dungri, Taluka Jilla – Valsad. Land situated at village Dungri, Tal. And Dist Valsad , bearing block/survey No.1624. Area 94548.00 sq.mtrs. (old block/survey No.1329, area admeasuring 08 –H. 52-R, 88 sq.mts, + 00-H, 15-R, 18 sq.mtrs., + 00-H, 73-R, 86 sq.mtrs., = 09-H, 41-R, 92 sq.mtrs.) area admeasuring 08 H,61-R-44 sq.mtrs., + 00, H, 15 R,18 sq.mtrs, + 00 H, 68 R, 86 sq.mtrs ., = 09 H, 45R, 48 sq.mtrs., Non agricultural land. *(Property sold by Respondent No.10 – Tanuja to Respondent No.11 – “M/s Sahaj Developers”)*.
4. Flat at Vashi, Navi Mumbai, being Flat No.406, Om Rachna Co.op. Housing Society ltd., Plot No.3, Sector 17, Vashi, Navi Mumbai. *(In possession of Respondent No.10 -Tanuja)*.
5. Development rights in the land and structure standing thereon known as Mathura Bhavan at Plot No.96,admeasuring 2065.23 sq.mts C S No.86, 1/86, Dada Saheb Phalke Road, Dadar, Naigaon DuivisionMumbai 400 014. *(In possession of Hema Shantilal Bhagat residing at 440, Hind Rajasthan Building, D. S. Phalke Road, Dadar (East ) Mumbai 400 018 and also at Flat No.401, 4<sup>th</sup> Floor, Mangal Maruti Building, S K Bole Marg, Mumbai 400 028.*

## PART “III”

1. Claim under LIC Policies bearing Nos.922863109, 921431263,921431708 and 922863108. *(Amount lying deposited in the Hon’ble Court).*
2. Balance in P.P.F. A/c No.367 with Bank of India, Worli Naka Branch, Mumbai 400 018. *(Amount lying in the Bank).*
3. Balance in SB A/c No.0564000101236923 with Punjab National Bank, Worli Branch, Dr. Annie Besant Road, Worli, Mumbai 400 018. *(Amount lying in the bank).*
4. Amount lying to the credit of the A/c No.17536 of Post Office Savings Bank in National Savings Scheme. *(Amount lying deposited in the Bank).*

NOTE : Description of properties is mentioned from Exhibit “B” to the Plaint and affidavit dated 03-02-2018 in support of Notice of Motion No.18 27 of 2019 and the same is subject to corrections herein.

The Respondent No.10 has not given any account of the amounts received by the Respondent No.10 from time to time and the Appellant is also not aware whether the Respondent No.10 has filed Income Tax Returns etc. No statement of account i.e. receipt and

expenses are disclosed till date. The Appellant in her IA No.5147 of 2022 – Para Nos. 35 to 40 pointed out in detail about the same.

**“ADDENDA TO THE APPELLANT’S LIST OF PROPERTIES”**

Dealing with the list of properties submitted by the Respondent No.10 (Org.Plaintiff )

- 1) No comments
- 2) No comments
- 3) Possession with Respondent No 10 Tanuja (Org. Plaintiff) and not with Narendra Tandel. The transaction was cancelled and Rs.48,00,000=00 (Rupees Forty Eight Lacs Only) (not Rs.26,00,00,000=00 (Rupees Twenty Six Crores Only) consideration was returned by cheque as mentioned in para 7 Page 657 of the Appellant’s affidavit in rejoinder (Vol. IV). Possession was never handed over to Narendra Tandel as it was always with the Org. Plaintiff. Thus it was not sold by Jaya Chheda.
- 4) Sr. Nos.I to IV -Possession with Tanuja’ s caretaker – Narayan Gadi
  - (i) Item Nos.V and V Survey No.127 and Survey No.128 , this property belonged to Hitesh Suresh Bhagat and the same was purchased on 29-10-1990 from Manilal Velji Munshi when Hitesh Bhagat was a minor and Suresh Kalyanji Bhagat as his father purchased the aforesaid properties as mentioned in para 7( e ) of rejoinder (Vol. IV) page Nos. 664 to 666 shown at Exhibit “A” to rejoinder Page Nos. 692, 693 , 694 and 698. However, the above properties are rightly not included in Exhibit “B” to the Plaint where the properties of deceased Suresh Bhagat are mentioned.
  - (ii) Item No. V Survey No.129(1) , this property belonged to Hitesh Suresh Bhagat and the same was purchased on 02-09-1994 from one Mr Harijan Deva when Hitesh Bhagat was a minor and Suresh Kalyanji Bhagat as his father purchased the aforesaid property as mentioned in 7( e ) of rejoinder (Vol. IV) page Nos. 664 to 666 shown at Exhibit “B” to rejoinder Page Nos. 712 till 723.This was wrongly typed and included in my earlier document submitted on 26-03-2026. However, the above property is rightly not included in Exhibit “B” to the Plaint where the properties of deceased Suresh Bhagat are mentioned.
- 5) Except survey No.129/1 which is already clarified above, the other Survey Nos. shown in 5 (i to vi) are in possession of Tanuja through her care taker – Narayan Gadvi.
- 6) Four shops were surrendered to landlord as mentioned in affidavit in rejoinder (Vol. IV) on page Nos. 659 to 663.
- 7) Kalyan Hotel CTS No. 16 and CTS No.16/1 were sold in December 2002 (not by the Appellant at all) to Respondent No.2 Suhas Mahadeo Roge during the lifetime and much before the death of Suresh Kalyanji Bhagat. The documents of sale in this regard are in custody of Respondent No.2.
- 8) Kalyan Hotel CTS No. 23 was sold in December 2002 (not by the Appellant at all) to Respondent N..2 Suhas Mahadeo Roge during the lifetime and much before the death of Suresh Kalyanji Bhagat. The documents of sale in this regard are in custody of Respondent No.2.

10. According to the respondent no.10, following are the details

of the properties disposed of by the appellant:-

| <i>List of properties along with parties holding possession and sold by which party</i> |                                                                                                                                                                                 |                                                             |                                               |                                                                                                                      |
|-----------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|-----------------------------------------------|----------------------------------------------------------------------------------------------------------------------|
| Sr. No.                                                                                 | Property details                                                                                                                                                                | Possession of Property                                      | Sold by                                       | Name of Court/Number litigation's apart from the present suit                                                        |
| <b>PART - I</b>                                                                         |                                                                                                                                                                                 |                                                             |                                               |                                                                                                                      |
| 1                                                                                       | A plot of land and the structure standing thereon ( 10 shops) at Suresh sadan, admeasuring about 10,000 sq.ft. Approx. situated at Dr. G. M. Bhole Road situated at Worli Naka. | Possession with Tenants under Rent Act                      | -                                             | 2                                                                                                                    |
| 2.                                                                                      | A shop bearing Shop No. 32, 41, 46, 47 at Panchratna building, Opera House, Mumbai 400004 in the name of Kalyan Jewellers                                                       | Tanuja Bhagat (Orig. Plaintiff)                             | -                                             | - Recovery proceedings by society under Sec 101                                                                      |
| 3.                                                                                      | Farm House admeasuring about 29 acres at National Highway No. 8 at/post – Dhamnachi, Valsad                                                                                     | Possession with Appellant's Purchaser (Narendra Tandel)     | Sold by Jaya Chheda (Appellant) for 26 Crores | Nil                                                                                                                  |
| 4.                                                                                      | Piece and parcel of Agricultural Land about 35.88 Acres situated at village Ratadiya Ganeshwala, Taluka Mundra, District Kutch                                                  | Appellant's care taker (Narayan Gadi) Gavdi                 | -                                             | Yes<br>- Hon'ble Mundra District Court ( Filed by Tanuja Bhagat and family for seeking possession from the occupant) |
| 4(i)                                                                                    | Survey No.81 admeasuring 2.02.51 (hectare/acre/sq.mt.) (New Survey No. 411)                                                                                                     |                                                             |                                               |                                                                                                                      |
| 4(ii)                                                                                   | Survey No.82 admeasuring 2.00.19 (hectare/acre/sq.mt.) (New Survey Nos.409 & 410)                                                                                               |                                                             |                                               |                                                                                                                      |
| 4(iii)                                                                                  | Survey No.105/2 admeasuring 0.69.89 (hectare/acre/sq.mt.) (New Survey No.372)                                                                                                   |                                                             |                                               |                                                                                                                      |
| 4(iv)                                                                                   | Survey No.105/3 admeasuring 0.51.64 (hectare/acre/sq.mt.) (New Survey No. 371)                                                                                                  |                                                             |                                               |                                                                                                                      |
| 4(v)                                                                                    | Survey No.127 admeasuring 2.65.14 (hectare/acre/sq.mt.) (New Survey No. 338)                                                                                                    | Possession with Appellant's Purchaser (Mitul Suresh Parekh) | Sold by Jaya Chheda (Appellant)               | - Ld. Collector, Ahmedabad<br>- In the Hon'ble Mundra District Court                                                 |
| 4(vi)                                                                                   | Survey No.128 admeasuring 2.25.71 (hectare/acre/sq.mt.) (New Survey No.337)                                                                                                     | Possession with Appellant's Purchaser (Mitul Suresh Parekh) | Sold by Jaya Chheda (Appellant)               |                                                                                                                      |

| <i>List of properties along with parties holding possession and sold by which party</i> |                                                                                                                                                                                                |                                                                      |                                                                                                                                                                       |                                                                                                                     |
|-----------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------|
| Sr. No.                                                                                 | Property details                                                                                                                                                                               | Possession of Property                                               | Sold by                                                                                                                                                               | Name of Court/Number litigation's apart from the present suit                                                       |
| 4(vii)                                                                                  | Survey No.129/1 admeasuring 4.36.53 (hectare/ acre/sq.mt.) (New Survey No. 339)                                                                                                                | Possession with Appellant's Purchaser (Everest Canto Cylinders Ltd.) | Sold by Jaya Chheda (Appellant)                                                                                                                                       | - Ld. Collector, Ahmedabad<br>- In the Hon'ble Mundra District Court                                                |
| 5                                                                                       | A Farm House consisting of about 32.3 acres agricultural and known as S.K. Bhagat Palika at Virania, Taluka Mundra                                                                             | Jaya Chheda through her care taker (Narayan Gadvi)                   | -                                                                                                                                                                     | Yes<br>- Hon'ble Mundra District Court (Filed by Tanuja Bhagat and family for seeking possession from the occupant) |
| 5(i)                                                                                    | Survey No.99/1 admeasuring 0.82.96 (hectare/ acre/sq.mt.)                                                                                                                                      |                                                                      |                                                                                                                                                                       |                                                                                                                     |
| 5(ii)                                                                                   | Survey No.101/Paki 1 admeasuring 2.69.12 (hectare/acre/sq.mt.)                                                                                                                                 |                                                                      |                                                                                                                                                                       |                                                                                                                     |
| 5(iii)                                                                                  | Survey No.103 admeasuring 1.57.77 (hectare/ acre/sq.mt.)                                                                                                                                       |                                                                      |                                                                                                                                                                       |                                                                                                                     |
| 5(iv)                                                                                   | Survey No.142/3/Paki 1 admeasuring 0.94.09 (hectare/acre/ sq.mt.)                                                                                                                              |                                                                      |                                                                                                                                                                       |                                                                                                                     |
| 5(v)                                                                                    | Survey No.148/3 admeasuring 1.12.30 (hectare/acre/sq.mt.)                                                                                                                                      |                                                                      |                                                                                                                                                                       |                                                                                                                     |
| 5(vi)                                                                                   | Survey No.149/Paki admeasuring 1.58.84 (hectare/acre/sq.mt.)                                                                                                                                   |                                                                      |                                                                                                                                                                       |                                                                                                                     |
| 5(vii)                                                                                  | Survey No.129/1 admeasuring 4.37.06 (hectare/acre/sq.mt.)                                                                                                                                      |                                                                      |                                                                                                                                                                       |                                                                                                                     |
| 6                                                                                       | Four shops in Valsad, being Shop Nos. 3, 4, 5 & 6 admeasuring 250 sq.ft. Each, situated at Valsad District, Cricket Association ground, Valsad Nagar Palika, Stadium Road, Valsad              | Possession with Third Party                                          | Sold by Jaya Chheda (Appellant)                                                                                                                                       | Nil                                                                                                                 |
| <b>PART - II</b>                                                                        |                                                                                                                                                                                                |                                                                      |                                                                                                                                                                       |                                                                                                                     |
| 7                                                                                       | Kalyan Hotel a running Hotel at Sabne Road, Mahableshwar bearing C.S.T.No.16, admeasuring about 274.2 sq.mtrs and C.T.S.No. 16/1 admeasuring about 25.9 sq.mtrs at Taluka Vai District Satara. | Suhas Mahadeo Roge, (Respondent No.2)                                | Sold by Hitesh Bhagat in his lifetime along with Jaya Chheda (Appellant) to Suhas Mahadeo Roge (Resp. No. 2)<br>All convicted for the murder of Suresh Kalyaji Bhagat | Nil                                                                                                                 |
| 8                                                                                       | Kalyan Hotel a running Hotel at Sabne Raod, Mahableshwar admeasuring about 426.43 sq.mtrs bearing C.T.S.No.23, District Satara DMS, Taluka Vai.                                                | Suhas Mahadeo Roge, (Respondent No.2)                                |                                                                                                                                                                       | Nil                                                                                                                 |

| <i>List of properties along with parties holding possession and sold by which party</i> |                                                                                                                                                                                                                                                                                                                                                       |                                            |                                                               |                                                                                                                   |
|-----------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|---------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|
| Sr. No.                                                                                 | Property details                                                                                                                                                                                                                                                                                                                                      | Possession of Property                     | Sold by                                                       | Name of Court/Number litigation's apart from the present suit                                                     |
| 9                                                                                       | Farm House and factory viz, Bhagat Paper & Board Mill admeasuring about 23 acres at National Highway No.8, At & Post Dungri, Taluka Jilla – Valsad, bearing block/survey No. 1624 – Area 94548.00 sq.mtrs.<br><br>old block/survey No.1329 – Area (08-H.52-R,88 sq.mts + 00-H,15-R,18 sq.mtrs. + 00-H,73-R, 86 sq.mtrs. = 09-H,41-R,92 sq.mtrs.) area | Waree Energies                             | 50% value of proerty is retained by M/s Sahaj Developers      | Yes<br>-Ld. Collector Valsad,<br>- In the Hon'ble Valsad District Court,<br>- In the Hon'ble Ahmedabad High Court |
| 10                                                                                      | Flat at Vashi, Navi Mumbai, being Flat No. 406, Om Rachna Co-operative Housing Society, Plot No.3, Sector 17, Vashi, Navi Mumbai                                                                                                                                                                                                                      | Tanuja Bhagat (Orig. Plaintiff)            | -                                                             | Nil                                                                                                               |
| 11                                                                                      | Development rights in the land and structure standing thereon known as Mathura Bhavan at Plot No. 96, Admeasuring 2065.23 sq.mts C.S. No.86, 1/86, Dada Saheb Phalke Road, Dadar, Naigaon Division, Mumbai 400014.                                                                                                                                    | Hema Shantilal Bhagat                      | Hema Shantilal Bhagat is selling the newly constructe d units | Yes<br>- Under Partnership<br>- In the Hon'ble Bombay High Court                                                  |
| 12                                                                                      | 5032 grams gold bar, RBI Bonds, 10/15 expensive watches, gold & diamond ornaments                                                                                                                                                                                                                                                                     | Hitesh Bhagat (During his lifetime)        | Not aware                                                     | Nil                                                                                                               |
| PART - III                                                                              |                                                                                                                                                                                                                                                                                                                                                       |                                            |                                                               |                                                                                                                   |
| 13                                                                                      | Claim under LIC policies bearing Nos. 922863109, 921431263, 921431708 and 922863108.                                                                                                                                                                                                                                                                  | Deposited in the Hon'ble Bombay High Court | -                                                             | Yes<br>(Present Suit)                                                                                             |
| 14                                                                                      | Balance in P.P.F. A/c No.367 with Bank of India, Worli Naka, Branch, Mumbai-400018.                                                                                                                                                                                                                                                                   | Amount lying in Bank                       | -                                                             | A/c freezed as per present Suit                                                                                   |
| 15                                                                                      | Balance in SB A/c No. 0564000101236923 with Punjab National Bank, Worli Branch, Dr. Annie Besant Road, Worli, Mumbai- 400018.                                                                                                                                                                                                                         |                                            |                                                               |                                                                                                                   |
| 16                                                                                      | Amount lying to the credit of the A/c No. 17536 of Post Office Savings Bank under National Savings Scheme.                                                                                                                                                                                                                                            |                                            |                                                               |                                                                                                                   |

11. Mr. Arshad Shaikh, the learned senior counsel for the respondent no.10 submits that in view of the orders passed by the Hon'ble Supreme Court and, in particular, the clarificatory order passed on 25<sup>th</sup> February 2019 all proceedings in Suit No.3197 of

2008 and Testamentary Suit No.100 of 2011 must remain stayed. The learned senior counsel for the respondent no.10 has referred to dictionary meaning of the expression “proceeding” to submit that the applications filed under Order 40 Rule 1 of the Code were not maintainable before the learned Single Judge of this Court till the disposal of Criminal Appeal No.968 of 2013. The learned senior counsel refers to expression “proceeding” as defined in the Black’s Law Dictionary, which reads as under:

*“PROCEEDING. In a general sense, the form and manner of conducting juridical business before a court or judicial officer; regular and orderly progress in form of law; including all possible steps in an action from its commencement to the execution of judgment.”*

12. Order 40 Rule 1 of the Code provides that the Court may appoint a Receiver of any property where it appears to the Court to be just and convenient before or after the decree. The power to appoint Receiver under Order 40 of the Code is wide enough and the Court can remove any person from possession or custody of the property. It can also commit the same to the possession, custody or management of the Receiver. The wide power conferred in the Court in the matters of appointment of Receiver under Order 40 of the Code can be gathered from clause (d) of Rule 1 which provides that the Court can confer upon the Receiver all such powers, as to bringing and defending suits and for the realization, management, protection, preservation and improvement of the property, the collection of the rents and profits thereof, the application and disposal of such rents and profits and the execution of documents as the owner himself has or such of those powers as the Court thinks fit. For the purposes of the present dispute on appointment of the Receiver, we observe that the expressions “management”, “protection”, “preservation” etc. or the “property” used under clause (d) of Rule 1 shall assume

considerable significance.

13. Having considered the rival submissions, this Court is of the opinion that a party which has been alleged of disposing of a part of suit properties cannot make any objection to appointment of a Receiver. Pertinently, the respondent no.10 has also alleged that the appellant has also been disposing of a part of the suit schedule properties and therefore a notice of motion was taken out by him. This is also a matter of record that the parties have made allegations against each other of violating interim injunction order passed by the Court. In this factual background, this is the understanding of this Court that the applications filed under Order 40 Rule 1 of the Code were required to be dealt with by the learned Single Judge. In our opinion, this could not have been the intention behind the order dated 25<sup>th</sup> February 2019 passed in Miscellaneous Application No.898 of 2024 by the Hon'ble Supreme Court that this Court cannot take up any application filed by any of the parties for any purpose whatsoever notwithstanding an eminent danger of the suit schedule properties being sold or disposed of by the parties. This is in public interest that the Courts should discourage multiplicity of litigation. In our opinion, the appointment of a Receiver shall be such a measure that serves the interest of justice and the litigating parties as well.

14. For the aforesaid reasons, Appeal No.118 of 2025 and Interim Application No.7621 of 2025 are allowed in the following terms:

- (i) The impugned order dated 29<sup>th</sup> September 2025 passed by the learned Single Judge in Notice of Motion No.1827 of 2019 in Suit No.3197 of 2008 with Interim Application No.3314 of 2024 is set

aside to the aforesaid extent.

- (ii) The Court Receiver, High Court, Bombay is appointed as a Receiver to take symbolic possession of all assets and properties mentioned in the suit schedule properties (Exhibit “B”) that are extracted above.
- (iii) The party who is in possession of the suit schedule properties shall stand appointed as an agent of the Receiver on the usual terms and conditions.
- (iv) The parties shall bear, equally, all necessary costs, charges and expenses of the Receiver.

**[ GAUTAM A. ANKHAD, J. ]**

**[ CHIEF JUSTICE ]**