

CNR no. MHRG040006052012



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**IN THE COURT OF 2ND JT. CIVIL JUDGE SENIOR
DIVISION, PANVEL, AT PANVEL, DIST. RAIGAD.
(Presided over by A. S. Badgujar)**

**Special Civil Suit No.451 of 2012
Exh.189/A.**

1. **Tukaram Dattatrey Patil**
Age – 39 years,
2. **Pandharinath Namdev Patil**
Age – 48 years,
3. **Shantaram Ganesh Mhatre**
Age – 36 years,
4. **Suresh Kashinath Shinde**
Age – 35 years,
5. **Rajendra Pundlik Mhaskar**
Age – 30 years,
6. **Madhukar Ballal Joshi**
Age – Major,
7. **Jaydas Maya Mhatre**
Age – 30 years,
8. **Sanjay Naga Bhoir**
Age – 30 years,

All R/o. at – Mohocha pada,
Taluka – Panvel, District – Raigad

.... Plaintiffs

VERSUS

1. **Ganu Balu Patil**
Age – Major,
2. **Sitaram Aambo Shelke**
Age – Major,
(Since deceased - Suit abated as per order below
Exh.1)
3. **Savalaram Ganpat Patil**
Age – Major,
4. **Balaram Shankar Kadav**
Age – Major,
5. **Baban Aalu Mhaskar**
Age – Major,
6. **Hiru Poshya Mhatre**
Age – Major,
7. **Namdev Padu Phadke**
Age – Major,
8. **Raghunath Shankar Patil**
Age – Major,
9. **Bama Padu Kadav**
Age – Major,
10. **Sakharam Ganpat Mhatre**
Age – Major,
11. **Nama Ragho Bhoir**
Age – Major,

12. **Ramesh Charu Sonawane**
Age – Major,
13. **Dattatrey Balu Patil**
Age – Major,
14. **Shankar Janu Patil**
Age – Major,
15. **Goma Govind Mhatre**
Age – Major,
16. **Ganu Kana Mhatre**
Age – Major,
17. **Khandu Balu Phadke**
Age – Major,
18. **Rajaram Kalu Patil**
Age – Major,
defendant no.1 to 18 R/o. at – Moho,
Taluka – Panvel, District – Raigad
19. **Valuable Property Pvt. Ltd.**
through director Narendra Hete,
R/o. at – Block no.602, J.P. Nagar,
Andheri – Kurla Road, Andheri (E),
Mumbai – 400059
20. **Akruti City Knowledge Pvt. Ltd.**
Akruti trade center, Road no.7,
Marol MIDC, Andheri (E),
through Sandeep Srikrishna Vichare
21. **Krishna Tukaram Shelke**
Age – Major,
22. **Anil Padmakar Patil**
Age – Major,

23. **Gopinath Bhikaji Pathe**
Age – Major,
24. **Shiva Baburao Pathe**
Age – Major,
25. **Dilip Tukaram Ghongare**
Age – Major,
26. **Sunil Kisan Patil**
Age – Major,
27. **Dattatrey Rama Patil**
Age – Major,
28. **Pandharinath Pundlik Kadav**
Age – Major,
29. **Anil Namdev Patil**
Age – Major,
30. **Vijay Dhaku Patil**
Age – Major,
31. **Sanjay Ananta Phadke**
Age – Major,
32. **Dattatrey Maruti Patil**
Age – Major,
33. **Shantaram Pundlik Patil**
Age – Major,
34. **Eknath Baliram Bhopi**
Age – Major,
35. **Raghunath Maya Mhatre**
Age – Major,
36. **Sanjay Sudam Patil**

Age – Major,

37. **Santosh Maya Mhatre**

Age – Major,

38. **Santosh Dattatrey Patil**

Age – Major,

39. **Ravindra Mahadu Patil**

Age – Major,

40. **Jayendra Ganesh Mhatre**

Age – Major,

41. **Vinayak Pandurang Shelke**

Age – Major,

42. **Vasudev Ganu alias Ganesh Patil**

Age – Major,

43. **Nitin Ganu alias Ganesh Pathe**

Age – Major,

44. **Dnyandev Nama Bhoir**

Age – Major,

45. **Arun Namdev Phadke**

Age – Major,

46. **Dilip Hiru Mhatre**

Age – Major,

47. **Baburao Savalaram Patil**

Age – Major,

48. **Pravin Ramesh Sonawane**

Age – Major,

defendant no.21 to 48 R/o. at -
Mohocha pada, Taluka – Parnel,
District – Raigad

.... Defendants

Suit for Declaration, Cancellation of a Sale Deed and for
Permanent Injunction

Advocates :-

Plaintiffs	- Adv. Trupti Patil.
Defendant no.1, 3 to 18	- Adv. Y. S. Bhopi.
Defendant no.19	- Adv. S. K. Rane.
Defendant no.20	- Adv. Laad.
Defendant no.21 to 40	- Adv. Amit Patil.
Defendant no.41 to 48	- Adv. Siddhi Patil.

:: JUDGMENT ::

(Delivered on this 31st March, 2026)

This is a suit filed by the plaintiffs seeking a declaration that the Sale Deed executed by defendant nos.1 to 18, 20 and 21 in respect of land bearing Survey no.63, Hissa no.0, admeasuring 37 Hectares and 28 Ares, situated at village Moho (hereinafter referred to as “the suit property”), is not binding upon them and for cancellation of the registered Sale Deed bearing no.9167/2007. The plaintiffs have further sought a declaration that defendant nos.1 to 18 did not acquire ownership rights under the registered Gift Deed bearing no.356 dated 09/04/1987 executed by plaintiff no.6 and his co-owners and, therefore, had no authority to alienate the said property, and that the said sale transaction is illegal. The plaintiffs have also sought a decree of permanent injunction restraining the defendants from changing the nature of the suit property, including its conversion from grazing land to non-agricultural use, and restraining defendant nos.19 and 20

from transferring the said property. The plaintiffs have further sought a declaration that they, along with the villagers of Moho and Mohocha Pada, are the owners of the suit property.

2. The case of the plaintiffs, in brief, is that the land bearing Survey no. 63, Hissa no. 0, admeasuring 37 Hectares and 28 Ares, situated at village Moho, Taluka Panvel, District Raigad, was reserved for the purpose of grazing cattle belonging to the villagers of Moho and Mohocha Pada. The plaintiffs contend that the entire village is the owner and in possession of the suit property. It is the case of the plaintiffs that the suit property was gifted by its erstwhile owner, Ballal Vasudev Joshi and others, by a registered Gift Deed dated 09/04/1987, bearing Registration no. 356, in favour of the village for the purpose of cattle grazing. The said gift was conditional in nature, with a stipulation that the land shall be used only for grazing purposes and shall not be alienated.

3. Pursuant to the said Gift Deed, the names of defendant nos. 1 to 18 and certain deceased persons, namely Barku Dama Patil, Sitaram Dagdu Patil, Bala Nahu More, Pandurang Shankar Mhatre, and Narayan Ramu Shelke, came to be recorded in the 7/12 extract as Panch on behalf of the village, vide Mutation Entry no. 950.

4. The plaintiffs further contend that the suit property has, since the date of the Gift Deed, been

continuously used by the villagers of Moho and Mohocha Pada for grazing their cattle. The villagers are agriculturists and depend upon cattle such as bullocks, cows and buffaloes for agricultural operations and other work. 1500 to 2000 cattle are stated to be dependent on the suit property for grazing. It is also stated that a co-operative society, namely Shri Gavdevi Dudh Utpadak Co-operative Society Limited, bearing no. RGD/PWL/AGR(O)/416/(D)/2001 is in existence in village Moho.

5. It is the case of the plaintiffs that earlier, a Regular Civil Suit bearing no. 17 of 2008 was filed in a representative capacity seeking declaration and permanent injunction in respect of the suit property wherein the village panch, who were selling the land without authority, were made parties. In the said suit, a public notice was issued and it was contended that the suit property belongs to the village and is reserved for grazing purposes. However, during the pendency of the said suit, defendant nos. 1 to 18 executed a Sale Deed in respect of the suit property in favour of defendant nos. 19 and 20 for consideration. In view of the said subsequent development, and considering that the relief of cancellation of Sale Deed was beyond the pecuniary jurisdiction of the Civil Judge, Junior Division, Panvel, the earlier suit came to be withdrawn and the present suit has been instituted. For filing the suit a meeting was called on 30/12/2007 in Hanuman Temple Moho under the chairmanship of Tukaram Dattatray Patil a

resolution for filing the suit was passed.

6. The Plaintiffs contend that defendant nos. 1 to 18 had no right or authority to alienate the suit property, and that the property was subject to the conditions imposed under the Gift Deed. It is further contended that the Sale Deed is illegal, and not binding upon the plaintiffs and the villagers.

7. It is further contended that the purchasers may alter the physical condition of the suit property by leveling the land and removing grass and trees, thereby affecting its utility as grazing land. According to the plaintiffs, such acts are detrimental to the livelihood of the villagers and may result in hardship, as cattle are essential for agriculture, milk production, and other activities.

8. The plaintiffs also contend that the nature of the suit property is recorded as "Gurcharan" in the 7/12 extract and as per Government circular, such land cannot be transferred. The defendants have acted in violation of such restrictions. On these grounds, the plaintiffs have filed the present suit seeking declaration, cancellation of the Sale Deed, and permanent injunction.

9. The suit proceeded without the written statement of defendant nos.1, 3 to 18 and 20, as per the order below Exhibit 1. Defendant no.2 is reported to have expired as per the bailiff's report dated 29/11/2012 at Exh.9. Hence, as recorded in the order below Exh.1, the suit

has abated against defendant no.2.

10. Defendant no.19, in his written statement at Exhibit 108, has contended that the suit is barred by misjoinder of parties and causes of action. He has further contended that there is no prayer challenging the Sale Deed dated 21/11/2007 executed in his favour by defendant nos.1 to 17, and that the relief sought is only in respect of the Sale Deed in favour of defendant no.20.

11. He has also contended that plaintiff nos.1 to 5 have no locus to file the present suit and that the predecessor of plaintiff no.6 had executed the Gift Deed, which provides that disputes are to be resolved by the villagers, and therefore plaintiff no.6 has no right to file the suit.

12. Defendant no.19 has further contended that he is a bona fide purchaser and has purchased the suit property after following legal procedure. According to him, the suit property was recorded in the names of 23 panchas in the 7/12 extract, out of whom five had expired. Pursuant to a resolution passed in a village meeting held on 09/02/2007 through the Group Gram Panchayat Vangani Tarfe Vaje, the names of the deceased panch were deleted and a resolution was passed for the sale of the suit property for the benefit of the village.

13. He has further contended that the suit property was sold with the consent of the villagers and that the

consideration was distributed accordingly. According to him, defendant nos.2 to 18 executed a Sale Deed in his favour, while defendant no.1 had executed a Sale Deed in favour of defendant no.20, which was subsequently transferred to him.

14. He has also contended that insufficient court fees have been paid by the plaintiffs. He has further contended that the suit property, though given for grazing purposes, is barren and not capable of being used for grazing purposes, and therefore the villagers decided to sell the same for their benefit.

15. He has further contended that the land was not sold by the panch in their individual capacity but pursuant to the consent of villagers in a convened meeting. He has also referred to prior disputes between the villagers and the Ballal family, and contended that, as part of settlement, the suit property was given to the villagers, and thereafter, the same was sold.

16. He has further contended that the plaintiffs are aware of the transaction and have filed the present suit for financial benefit. According to him, the sale transaction is legal and valid, the consideration has been distributed, and the plaintiffs have no right to challenge the same. He has therefore prayed for dismissal of the suit.

17. Defendant nos.21 to 40, in their written statement at Exhibit 109, have admitted the claim of the

plaintiffs. They contended that the suit property bearing Survey no.63, Hissa no.0, admeasuring 37 Hectares and 28 Ares, situated at village Moho, is the property of the village and is in its ownership and possession. According to them, the said land was given by the erstwhile owner, Ballal Vasudev Joshi, by a Gift Deed dated 09/04/1987 for the purpose of grazing cattle of Moho.

18. They further contended that the names of defendant nos.1 to 18 and certain deceased persons namely Barku Dama Patil, Sitaram Dagdu Patil, Bala Nahu More, Pandurang Shankar Mhatre, Narayan Ramu Shelke, were recorded in the 7/12 extract as panch on behalf of the village, and Mutation Entry no.950 was effected accordingly. It is their case that the suit property was given for "Gurcharan" purposes and was being used by the villagers and surrounding villages for grazing cattle, numbering 1500 to 2000 belonging to Moho and Mohocha Pada. They also referred to the existence of Shri Gavdevi Dudh Utpadak Co-operative Society Ltd., Moho.

19. They further contended that any decision regarding the suit property ought to be taken considering the welfare of the entire village, and that defendant nos.1 to 18, without any legal authority, executed the sale in favour of defendant nos.19 and 20. According to them, such transaction is illegal and amounts to fraud on the villagers as well as the donor of the Gift Deed. They further contended that, as per Government circulars, land recorded

as “Gurcharan” cannot be transferred, and that the defendants have acted in violation thereof. They also contended that the defendant nos. 20 and 21 may change the nature of the land by obtaining non-agricultural permission for construction, thereby affecting its character as Gurcharan land.

20. Defendant nos.41 to 48, in their written statement at Exhibit 180, have also supported and admitted the case of the plaintiffs. They contended that the suit property belongs to the village of Moho and was given by Ballal Vasudev Joshi by way of a Gift Deed dated 09/04/1987 for grazing purposes. According to them, the property was recorded in the names of defendant nos.1 to 18 as panch in the 7/12 extract, and Mutation Entry no.950 was effected accordingly.

21. They further contended that the suit property has been continuously used for grazing cattle by the villagers of Moho and Mohocha Pada, who are agriculturists. They reiterated that the land was reserved for “Gurcharan” purposes and that any decision regarding the same should be taken keeping in view the welfare of the entire village.

22. They further contended that defendant nos.1 to 18 executed the Sale Deed in favour of defendant nos.20 and 21 and that the said transaction is not binding upon them. They also contended that the purchasers may alter

the physical condition of the land, including the removal of grass and trees, which may affect grazing and cause hardship to the villagers.

23. They have also stated their relationship with certain defendants, contending that the Sale Deed executed by their fathers and other defendants, bearing Registration no.9167/2007, was not within their knowledge and is not binding upon them.

24. After considering the rival contentions of the plaintiffs and the defendants, my learned predecessor framed the following issues at Exhibit 116 in Marathi. I have translated the same and reproduced them below for determination. The findings thereon, along with reasons, are as follows:-

<u>ISSUES</u>		<u>FINDINGS</u>
1)	Whether the plaintiffs prove that, though the suit property was reserved for grazing cattle, defendant nos.1 to 18 illegally sold it to defendant nos.19 and 20?	In the Negative.
2)	Whether the plaintiffs prove that the suit property cannot be purchased or sold without permission of the Collector?	In the Negative.
3)	Whether the plaintiffs prove that defendant nos.19 and 20 purchased the suit property without legal compliance?	In the Negative.
4)	Whether the plaintiffs are entitled to a declaration that the registered Sale	

	Deed no.9167/2007 in respect of the suit property is illegal having been executed by defendant nos.1 to 18 without ownership rights?	In the Negative.
5)	Whether the plaintiffs are entitled to cancellation of the registered Sale Deed no.9167/2007 on that basis?	In the Negative.
6)	Whether the plaintiffs are entitled to permanent injunction against the defendants ?	In the Negative.
7)	What order and decree ?	As per final order.

:: REASONS ::

25. The plaintiffs have examined P.W.1 – Plaintiff no.1, Tukaram Dattatrey Patil, at Exhibit 123, P.W.2 – Ganpat Ragho Patil alias G.R. Patil, at Exhibit 145, P.W.3 – Jitendra Maruti Ingale, at Exhibit 154, P.W.4 – Bholenath Narayan Jagtap at Exhibit 162 and P.W.5 – Kashinath Pandurang Shinde at Exhibit 165. The plaintiffs closed their evidence by filing a pursis at Exhibit 181. The plaintiffs have produced the Gift deed bearing no.356/1987 at Exhibit 128, the Public Notice at Exhibit 129, the 7/12 extract of survey no.63 at Exhibit 133, the Mutation Entry no.950 at Exhibit 134, the Sale Deed bearing no.9167/2007 at Exhibit 142, the Farokt Khat bearing no.8914/2007 at Exhibit 143, Letter dated 07/01/2026 at Exhibit 163.

26. The defendant no.19 Prasad Manohar Sawant has examined himself as D.W.1 at Exhibit 170. Defendant no.19 has produced the Resolution at Exhibit 173, the

Proceeding at Exhibit 174, the Bank Statement at Exhibit 175, the Consent Letter and Undertaking at Exhibit 176 to 181, the 7/12 extract at Exhibit 187, the Mutation Entry no.1536 at Exhibit 188.

27. Defendant no.19 has closed his evidence at Exh.182. Defendant no.21 to 40 have closed their evidence at Exh.167 and Defendant no.41 to 48 have closed their evidence at Exh.168.

28. Learned counsel for the plaintiffs submitted that the suit property was gifted for the benefit of the villagers for grazing purposes and was being used accordingly. It is contended that defendant nos.1 to 18 were recorded only in a representative capacity and did not acquire any independent right, title or authority to alienate the property. It is further submitted that the Sale Deed bearing no.9167/2007 has been executed without authority and is not binding on the plaintiffs or the villagers. The transaction is contrary to the purpose for which the land was given and detrimental to the interest of the village community.

29. It is also contended that the purchasers may alter the nature of the suit property and put it to non-agricultural use, thereby causing hardship to the villagers. On these grounds, the plaintiffs seek declaration, cancellation of the Sale Deed and permanent injunction. He relied upon:-

1) **Kilburn Engineering Ltd. Vs. Oil and Natural Gas Corporation Ltd. and another, AIR 2000 BOMBAY 405,** wherein, the Hon'ble Bombay High Court observed that,

“Offer and acceptance must be founded on certainty, commitment and communication. Any one of them lacking in offer or acceptance is not valid contract.”

2) **Hinch Lal Tiwari Vs. Kamala Devi and others, AIR 2001 SUPREME COURT 3215,** wherein, the Hon'ble Supreme Court observed that,

“Ground that allotted land forms part of pond (Talab). Concurrent finding that a pond existed in area and the area covered by it varies in rainy season. In such facts no part of it could have been allotted to anybody for construction of house building or any allied purposes. Allottees directed to vacate sites.”

3) **Jagpal Singh and Ors. Vs. State of Punjab and Ors., AIR 2011 SUPREME COURT 1123,** wherein, the Hon'ble Supreme Court observed that,

“Illegal encroachment on grampanchayat land. Regularizing such illegalities cannot be permitted. Common interest of villagers cannot be allowed to suffer merely because unauthorized occupation has subsisted for many years. Unauthorized occupants liable to be erected.”

4) **The Deity Mandir Nandi Keshwar Mahadev etc. Vs. Gram Sabha, AIR 1973 HIMACHAL PRADESH 2**, wherein, the Hon'ble Himachal Pradesh High Court observed that,

“Plaintiff need not establish title, it is sufficient if they can satisfy that the disputed property should be preserved in it's present condition until the question of their alleged right is disposed of.”

5) **Harji Ram and Ors. Vs. Dhronacharya and Ors., AIR 2006 RAJASTHAN 143**, wherein, the Hon'ble Rajasthan High Court observed that,

“Plaintiffs claimed that suit land was used by them from time of their ancestors for purpose of grazing cattle. Collector in his report stated that land was Johad and Gochar Land. Land was being used for purpose of grazing cattle of village. Nobody was in possession of land or had been given khatedari rights over said land. As defendant could not establish that suit land was not pasture land i.e. land used for grazing of cattle of village plaintiff was entitled to relief in regard to right to graze their cattle.”

6) **KBC Pictures Vs. A.R. Murgadoss and others, 2008 BCI 108**, wherein, the Hon'ble Bombay High Court observed that,

“Plaintiff sought injunction restraining defendants from infringing his copyright. Plaintiff submits by

agreement remake assignment given to defendant no.1 for consideration. Further contends, defendant no.3 was making remake of film in Hindi in violation of copyright. Defendant no.1 denied executed any agreement, having received any consideration. Further denied his signatures on agreement. Defendant no.3 denied plaintiff was owner of copyright of story of Ghajini. Further stated copyright vested in other person from who he acquired rights. Agreement and receipt are suspicious documents, not admissible in evidence. Document of agreement not beared serial number of notarial register. Plaintiff not proved even prima facie defendant no.1 executed agreement and receipt. Grievance made by defendant no.3 that suit is attempt to extract money from him trying to secure order of injunction at last minute cannot be said to be unwarranted. Interim relief is refused and motion dismissed with costs at Rs.10,000/-.”

30. Learned counsel for defendant no.19 submitted that the suit is not maintainable either in law or on facts. It is contended that the plaintiffs have no locus to challenge the transaction and have failed to prove any legal right in the suit property. It is further submitted that the sale deed is a registered document executed for valid consideration after following due procedure. The names of the vendors were recorded in the revenue record, and the transaction was effected pursuant to decisions taken at the village level.

It is also contended that the suit property is not subject to any legally enforceable restriction on transfer, and no permission was required. The purchaser is a bona fide purchaser for value, and it is submitted that the plaintiffs have failed to establish any illegality in the transaction. Hence, dismissal of the suit is prayed.

31. Learned counsel for defendant nos.21 to 48 supported the case of the plaintiffs and submitted that the suit property belongs to the village and was intended for grazing purposes. It is contended that defendant nos.1 to 18 had no authority to alienate the property and that the Sale Deed is not binding on them. They further submitted that the transaction is against the interest of the villagers and may result in change in the nature of the land, thereby affecting grazing activities. Accordingly, they prayed that the suit be decreed. He relied upon:-

1) Shanti Devi (Since Deceased) Through Lrs. Goran Vs. Jagan Devi and Ors., 2026 SAR (Civ) 1, 2025 SAR Online (SC) 1107, wherein, the Hon'ble Supreme Court observed that,

“Sale deed without consideration is void. Sale of an immovable property would have to be for a price and such a payment of price is essential, even if it is payable in the future. If a sale deed is executed without the payment of price, it is not a sale at all in the eyes of law, specifically under section 54 of the T.P. Act. Such a sale without consideration would be

void and would not affect the transfer of immovable property. In the absence of sale consideration being tendered the sale deed would be void and plaintiff would not be required to seek its cancellation. Therefore, Article 59 of the Limitation Act, 1963 could not be said to be applicable to the present facts.”

As to Issues no. 1 to 4:-

32. These issues are interconnected as they relate to the nature of the suit property, authority of defendant nos.1 to 18 to transfer the same, and legality of the sale transactions. Hence, they are taken up together for common discussion.

33. The case of the plaintiffs is that the suit property was transferred by its erstwhile owner through a registered Gift Deed dated 09/04/1987 for the purpose of grazing cattle belonging to the villagers. According to them, by virtue of such dedication, the property assumed the character of “Gurcharan” land and, therefore, became inalienable. It is further contended that defendant nos.1 to 18 were recorded in the revenue records as panch holders in a representative capacity on behalf of the village and did not acquire any independent right, title, or authority to alienate the suit property.

34. Plaintiff no.1, Tukaram Dattatray Patil, in his evidence at Exhibit 123, deposed that the suit property

bearing Survey no.63, Hissa no.0, admeasuring 37 Hectares and 28 Ares, situated at village Moho, was transferred by a registered Gift Deed bearing no.356 dated 09/04/1987 without consideration for the benefit of the villagers for the purpose of grazing cattle, with a stipulation that the land shall be used as "Gurcharan" land. He further deposed that the suit property has been continuously used for grazing cattle belonging to the villagers of Moho and Mohocha Pada. In support of his evidence, the plaintiffs have produced the said Gift Deed at Exh.128, executed by Ballal Vasudev Joshi, Chintaman Parshuram Joshi, Shailaja Govind Padhye and Sindhu Madhusudan Oak, confirming the transfer through Chandrashekhar Achyut Kant in favour of defendant nos.1 to 3, 5 to 8, 10, 11 to 13, 14, 15, 17 and 18, along with Barku Dama Patil, Sitaram Dagdu Patil, Bala Navu More, Pandurang Shankar Mhatre, Nama Padu Kadav, Narayan Ramu Shelke and Janu Kana Pathe.

35. The recitals of the said Gift Deed indicate that Moho village was an Inam village of the Joshi family and that, after abolition of the Inam in the year 1953, the ownership and possession of certain lands, including grazing and barren lands, continued with them. It is further recited that, out of the lands bearing Survey nos.141, 63 and 14, certain portions were subject to tenancy rights, and in respect of Survey no.14, proceedings under Section 32G of the Bombay Tenancy and Agricultural Lands Act, 1948 were undertaken. It is also mentioned that Survey no.141 was sold on 26/05/1986 in favour of M/s. Girikandara

Partnership Firm.

36. The Gift Deed further records that disputes had arisen as certain portions of land were in occupation of villagers, and negotiations took place between the partners of the said firm and the villagers regarding measurement and allotment of such portions. It is stated that, in order to maintain cordial relations with the villagers and to resolve disputes arising out of the earlier transaction of Survey no.141, the donors decided to grant Survey no.63 to the villagers without consideration. The document further stipulates that the said land shall be used for grazing cattle and for the villagers; that its management and supervision shall be carried out by the villagers through a representative; and that any disputes arising after the execution of the Gift Deed shall be resolved by the villagers.

37. He further stated that the names of defendant nos.1 to 18, along with certain deceased persons, namely Barku Dama Patil, Sitaram Dagdu Patil, Bala Nawu More, Pandurang Shankar Mhatre and Narayan Ramu Shelke, were recorded in the 7/12 extract as panch on behalf of the village, and that Mutation Entry no.950 was effected accordingly. The 7/12 extract at Exhibit 133 reflects the names of defendant nos.1 to 15, 17 and 18, along with Ganu Kana Pathe, as possessors of Survey no.63 situated at Moho. Mutation Entry no.950 at Exh.134 refers to the Gift Deed executed without consideration and records in the remarks column that the land was given to the village for

“Gurcharan” purposes. The subsequent 7/12 extract at Exh.187 further reflects the name of defendant no.19 under Khate no.328.

38. He further deposed that a large number of cattle belonging to the villagers, as well as cattle from surrounding areas, are dependent upon the suit property for grazing, and that 1500 to 2000 cattle of Moho and Mohocha Pada are grazed thereon. He also referred to the existence of Shri Gavdevi Milk Utpadak Co-operative Society Ltd., Moho, registered with the competent authority. He further deposed that an earlier representative suit bearing Regular Civil Suit no.17 of 2008 was filed before the Civil Judge, Junior Division, Panvel, seeking declaration of ownership of the village over the suit property and for permanent injunction, including a challenge to the authority of the defendant about transaction. He stated that a public notice was issued in the said representative suit. However, during the pendency of the said suit, defendant nos.1 to 18 executed a sale deed in respect of the suit property, and therefore, the earlier suit came to be withdrawn, and the present suit was filed after impleading the purchasers.

39. He further stated that the Sale Deed bearing registration no.9167 of 2007, and produced at Exhibit 142, was executed on 21/11/2007 by defendant nos.2 to 11, 12 to 15, 17 and 18, along with Nama Ragho Bhoir and Ganu Kana Pathe, in favour of defendant no.19. The total

consideration mentioned therein is Rs.17,60,50,000/-, Out of the said consideration, an amount of Rs.2,80,22,712/- is stated to have been paid initially, and a further sum of Rs.12,76,00,000/- was paid on 21/11/2007 to Savita Balaram Mhatre and other 318. It is further stated that an amount of Rs.34,50,000/- was paid to Ganu Balu Patil and other 22, Rs.21,00,000/- to Jay Hanuman Mandir Vikas Committee. It is also stated that an amount of Rs.12,39,774/- each was paid to Suresh Rambhau Kadav, Kisan Laxman Phadke, Pandurang Balaram More, Namdev Savalaram Patil, Anant Baliram Kadav, Santosh Raghunath Patil, Baban Aalya Mhaskar, Mohan Shankar Pathe, Pundalik Maruti Phadke, Bhau Shankar Patil, Krushna Namdev Patil and Santosh Baliram Patil, as reflected in the recitals of the said Sale Deed. The Farokt Khat at Exh.143 executed by defendant no.1 in favour of defendant no.20.

40. He further deposed that the plaintiffs are residents of Moho and Mohocha Pada and that the suit property was gifted subject to a condition that it shall be used for grazing purposes and not be alienated. He also stated that, prior to filing the earlier suit, a meeting of villagers was convened on 30/12/2007 at Hanuman Temple, Moho, under the chairmanship of Tukaram Dattatray Patil, wherein a decision was taken to initiate legal proceedings. He further stated that defendant nos.1 to 18 had no right, title or authority to alienate the suit property and that the sale transaction was effected for personal gain without considering the welfare of the village.

He further stated that the sale was carried out illegally and in breach of the conditions of the Gift Deed, thereby causing prejudice to the villagers and the donor. He also stated that the execution of the Sale Deed came to his knowledge subsequently, as the transaction was carried out in secrecy. In his cross-examination, he stated that the co-operative society subsequently ceased to function, and he admitted that the suit property did not originate from Government land and it was the self-acquired property of the Joshi family. He further stated that, a meeting of villagers was convened. No documentary evidence of such meeting or any resolution has been produced. He stated that 50 to 60 persons were present in the meeting; however, no record thereof was produced..

41. He further admitted that the name of defendant no.19 has been recorded in the 7/12 extract since the year 2008 and that objections to mutation was pending before the Tahsildar. He also admitted that no criminal proceedings were initiated against defendant no.19 about fraud. He stated that there is no entry of "Gurcharan" or "Gairan" in the 7/12 extract and that such reference is found in mutation entries. He further admitted that the Gift Deed provides that disputes relating to the property are to be resolved by the villagers . He also stated that there were prior disputes among 7-8 villagers regarding Survey no.141, and that they had initiated proceedings in that regard. He further admitted that, as per the 7/12 extract, there were 23 panch recorded, out of which five had expired, and that

he had knowledge that consideration from the sale transaction was paid to the karta. Mutation Entry no.1536 at Exh.188 reflects that the names of five panchas were deleted. He also stated that the Sale Deed in favour of defendant no.19 was executed prior to filing of the present suit and that objections were raised through a public notice prior to its execution. The public notice dated 18/08/2007 published in the daily "Raigad Nagari" is produced at Exhibit 129. He further stated that no authority or power of attorney was executed by the villagers in favour of defendant nos. 2 to 18, and that there are about 1000 to 1200 cattle in the village; according to the report of the Veterinary Officer, the number is 300 to 350.

42. P.W.2 Ganpat Ragho Patil @ G.R. Patil, in his evidence at Exhibit 145, deposed that prior to filing of the suit, disputes existed among the plaintiffs, defendants, villagers in possession, and donors of the Gift Deed in respect of Survey nos.141 and 63 of village Moho regarding possession. He further stated that, in order to maintain cordial relations among the villagers and the office bearers of Girikendra Pvt. Ltd., and to ensure that the possession of villagers was not disturbed, a meeting was held at the Rest House, Panvel. He deposed that in the said meeting, with a view to avoid enmity among villagers and Girikendra and to protect their rights in the land, the representatives of Girikendra Pvt. Ltd., including Manik Shah and Chandu A. Kant, acknowledged the rights of the villagers. According to him, pursuant thereto, a registered Gift Deed was executed

by the original landowners, namely Chintaman Parshuram Joshi, Shailaja Govind Padhye and Sindhu Madhusudan Oak, Chandrashekhar Achyut Kant, in favour of the villagers. He further stated that he, along with Dr. Bhaktikumar Dave, had signed the said Gift Deed as a witness and that the contents thereof were finalized in their presence. He further deposed that the suit property was given for "Gurcharan" grazing purposes and stated that there was a condition that the land should not be sold. He admitted that the said land is being used for grazing purposes. He further admitted that Survey no.63/0 was given to the villagers in order to avoid disputes in respect of Survey no.141. However, he also admitted that the Gift Deed does not mention that the land shall not be sold, and it refers to its use for grazing purposes. He further stated that the Gift Deed provides that any disputes arising in respect of the land are to be resolved by the villagers . He also admitted that his evidence is with regard to the meeting held between the Ballal Joshi family and the villagers.

43. P.W.4 Bholenath Narayan Jagtap, in his evidence at Exhibit 162, deposed that plaintiff Tukaram Dattatray Patil had sought information under the Right to Information Act in respect of the Gram Sabha held on 09/02/2007, and the reply thereto is produced at Exhibit 163. He stated that, as per the information furnished, the proceedings of the said Gram Sabha dated 09/02/2007 are not available in the Gram Panchayat record. He further deposed that, after

receiving application, he verified the entire record of that year, including the files and proceedings. He referred to the communication dated 07/01/2026 at Exh.163. He stated that he had attempted to obtain information from the Gramsevak who was in office in the year 2007; however, he was unable to contact him, and further stated that the said Gramsevak, Patole, was serving in Raigad district .

44. He further stated that, upon verification of the records for the relevant period, including the proceedings and files, although the proceedings register was available, no entry corresponding to the Gram Sabha dated 09/02/2007 was found therein. He also stated that no entry is found in the outward register regarding issuance of a certified copy of the resolution passed by Gramsevak Patole and Sarpanch Pawar.

45. In his cross-examination, he admitted that he has no personal knowledge regarding the events of the year 2007 in the Gram Panchayat Vangni Tarfe Vaje.

46. P.W.5 Kashinath Pandurang Shinde, in his evidence at Exhibit 165, deposed that he is a resident of village Moho and an agriculturist, and that his land bearing Survey no.82/2 is situated near the suit property on the eastern and northern side. He deposed that the villagers had opposed the sale of the suit property in the year 2007; however, the panch proceeded to execute the sale. He further stated that he and his son, Suresh Shinde, had

opposed the said transaction, and that, at that time, an agent of Valuable Properties assaulted his son, in respect of which C.R. no.100/2007 was registered, and the corresponding case is stated to be no.20/2009. He further deposed that the suit property was given for grazing cattle under the Gift Deed dated 09/04/1987, and according to him, there was a condition that the land should not be sold and should be used for “Gurcharan” purposes. He also stated that the panch illegally sold the suit property to Valuable Properties Pvt. Ltd. He further deposed that the suit property is in possession of the villagers and is being used for grazing cattle, and that the residents of Moho and Mohocha Pada maintain cattle for agricultural and other work. However, he deposed that he was not aware of the contents of the document executed by Ballal Joshi, and further deposed that the land was given to the village.

47. Defendant no.19, Prasad Manohar Sawant, deposed in his evidence at Exhibit 170 that, pursuant to a resolution dated 15/11/2024 passed by Valuable Properties Pvt. Ltd., he was authorized to look after the present litigation and, on that basis, authorized to file his affidavit. The said resolution is produced at Exhibit 173. He deposed that the suit property was recorded in the 7/12 extract in the name of village panch as possessors and that the same was given to the villagers by the original owner, Ballal Vasudev Joshi, by way of a registered Gift Deed. He further deposed that the suit property was barren land and not productive, and therefore the villagers decided to sell the

same. According to him, a meeting was held on 30/01/2007 and a resolution to sell the suit property was passed. He stated that, since five panch had expired, a Gram Sabha was convened on 09/02/2007 at Vangni Tarfe Vaje Gram Panchayat, wherein a resolution was passed for deletion of the names of the deceased panch and for sale of the suit property. He further stated that all panch, except Ganu Balu Patil, executed the Sale Deed.

48. He deposed that the suit property was never used as “Gurcharan” land and that the number of cattle in the village was negligible. He further stated that the villagers had decided to sell the property for the benefit of the village and that, on the basis of the Sale Deed, the company applied for recording its name. He stated that objections were raised by the plaintiffs and others by filing Complaint Case no.64/2008 before the Tahsildar, Panvel, which was rejected on 03/07/2010, and thereafter the name of defendant no.19 came to be recorded in the 7/12 extract by Mutation Entry no.1623. He further stated that RTS Appeal no.391/2010 and RTS Appeal no.137/2012 were also dismissed on 18/02/2012 and 11/03/2016, respectively.

49. He further deposed that the consideration of Rs.17,60,50,000/- was paid and that, prior to purchase, a public notice dated 15/05/2007 was published in the daily “Ratnagiri Times”. According to him, after verifying the title documents, record of rights and resolutions, the company

purchased the suit property. He also stated that the entire consideration was distributed among the villagers as agreed. He further referred to proceedings at Exh.174 and stated that, in RTS proceedings involving the Collector, an order dated 28/01/2009 was cancelled, and thereafter the Collector issued directions on 16/01/2010 to the Tahsildar, Panvel, regarding the name of the company in revenue record. An order was passed that, except Moho and Nere Gavki lands, no land shall be transferred without prior permission of the Collector, Raigad-Alibag.

50. He admitted that the name of Gram Panchayat Moho is not reflected in the 7/12 extract, and the property relates to Moho and Mohocha Pada, and that the circular of the Collector was not set aside, and the appeal was partly allowed. He admitted that, under the Maharashtra Land Revenue Code, panch are not authorized to sell Gavki or Gurcharan land, but stated that the suit property is not Gurcharan land. He further admitted that Ganu Balu Patil had not consented to the sale and had not signed the sell resolution. He also admitted that Vangni, Nere and Vaje are distinct villages and not directly related to Moho and Mohocha Pada, and that the Gift Deed does not confer authority upon the panch to sell the suit property.

51. He further admitted that he was authorized only to file an affidavit and had no personal knowledge of the actual transaction. He also admitted that the Gift Deed mentions that Survey no.63 was to be used for village

purposes and grazing of cattle. He further admitted that the Sale Deed records ownership in the names of 18 persons and not in the name of the entire village, and that the consideration was decided between those persons and the company and paid to 17 persons. He further admitted that the possession letter was executed by 18 persons, and that in the consent letter and undertaking (Samatipatra and Hamipatra) it is not mentioned that possession was handed over by the entire village, nor are the date and place mentioned therein. He further admitted that the said documents were executed in favour of Valuable Infrastructure Pvt. Ltd., whereas the Sale Deed is in favour of Valuable Properties Pvt. Ltd., and that it is not stated that both entities are the same. He also admitted that the said documents are not registered.

52. He further stated that signatures of panch and owner were obtained on the said documents; however, he admitted that the resolution for sale is not reflected therein and that the documents do not bear signatures of the persons in whose names the stamp papers were purchased. He further admitted that the population of the village in the year 2007 is not mentioned in his affidavit, the Sale Deed, or the consent letter and undertaking, and that the details of consideration are not reflected in his written statement and affidavit. There are discrepancies between the cheque details mentioned in the consent letter and undertaking, at Exh.176 to 181 and the bank statement at Exh.175.

53. P.W.1 Tukaram Dattatray Patil deposed at Exh.123 that, according to him, the Collector, on behalf of the Government of Maharashtra, had imposed restrictions by way of a circular on the transfer of land recorded as “Gurcharan” in the 7/12 extract, and that the defendants have violated the said restriction.

54. P.W.3 Jitendra Maruti Ingale, in his evidence at Exhibit 154, deposed that he was deposing on the basis of an authority letter issued by the Collector. He stated that a communication dated 28/01/2009 was issued to the Sub-Divisional Officer and the Tahsildar, Raigad, and the said letter is produced at Exhibit 155. He further deposed that, in respect of Gavki land in Raigad-Alibag, it is not feasible to record the names of all villagers in the 7x12 extracts; hence, the names of a panch are recorded in a representative capacity. He stated that such panch do not have authority to sell, mortgage, lease, or otherwise change the nature of the land.

55. However, he stated that the said communication is neither a circular nor an order. In his cross-examination, he admitted that he has no personal knowledge regarding subsequent events or developments pertaining to the suit property.

56. Defendant no. 19 stated that the suit property is classified as Class I land and that it has never been classified by the Government as “Gurcharan” land; hence,

according to him, no prior permission was required for its sale or purchase.

57. Upon appreciation of the entire oral and documentary evidence on record, it emerges that the plaintiffs have relied upon the Gift Deed dated 09/04/1987 at Exh. 128 to contend that the suit property was dedicated for grazing purposes for the benefit of the villagers. The recitals of the said document indicate that the land was intended to be used for grazing cattle and for village purposes, and that its management was to be carried out by the villagers. However, the said Gift Deed does not disclose any express or legally enforceable restriction prohibiting alienation of the suit property. The condition regarding use of land for grazing purposes indicates intended user and does not amount to an absolute restraint on transfer in absence of express prohibition, as contemplated under Section 10 of the Transfer of Property Act, 1882. Though the suit property is described as 'Gurcharan' in mutation entry no.950, such description appears only in the remarks column and is not shown as a classification in the record of rights. Such entry, by itself, is not conclusive to establish the legal character of the land or to impose any restriction on its transfer. The material on record indicates the intended use of the land for grazing purposes; however, such user does not, in absence of clear and legally enforceable restriction, render the property inalienable.

58. Further, the evidence of P.W.1, Tukaram

Dattatray Patil and other witnesses does not establish that defendant nos. 1 to 18 lacked authority to deal with the property. Learned counsel for defendant nos.21 to 40 has relied upon the principle that no person can transfer a better title than he himself possesses. The said principle is well settled. However, its applicability depends upon proof that the transferor lacked title or authority. In the present case, the plaintiffs have failed to establish such lack of authority. Hence, the said contention does not advance their case.

59. No cogent documentary evidence of any valid Gram Sabha resolution or collective authorization by the village community has been produced.

60. The plaintiffs have contended that prior permission of the Collector was necessary before transfer of the suit property. However, no cogent documentary evidence has been produced to show that the suit property was subject to any legally enforceable restriction on transfer or that such permission was mandatorily required. Reference in mutation entry or oral assertions is insufficient to establish such restriction. In absence of proof of any binding condition or prohibition governing the suit property, it cannot be held that the transaction is invalid for want of permission. The plaintiffs have not established that the suit property was governed by any binding condition or restriction requiring prior permission for transfer. The description of the land as 'Gurcharan' in mutation remarks

is insufficient to infer such legal prohibition.

61. It is also significant that the name of defendant no. 19 has been entered in the revenue record pursuant to the transaction and continues to remain therein since the year 2008. Such mutation entries have not been set aside by any competent authority, thereby giving rise to a presumption of possession in favour of the purchaser.

62. The evidence of defendant no. 19, though containing certain inconsistencies, establishes that the transaction was supported by revenue entries and subsequent proceedings.

63. The plaintiffs have failed to demonstrate any specific violation of mandatory legal procedure in execution of the Sale Deed. Contentions of illegality, without supporting legal evidence, are insufficient to invalidate a registered transaction. In view of the distinguishable facts, the aforesaid citations are not applicable to the present case.

64. In view of the above, although the plaintiffs have established that the land was intended for grazing purposes and was used accordingly to some extent, they have failed to prove that the suit property was inalienable or that defendant nos. 1 to 18 had no authority to execute the sale deed. Consequently, the plaintiffs have not discharged the burden of proof, and the transaction cannot

be held to be illegal in law. Hence issue nos. 1 to 4 are answered in the negative.

As to Issue no. 5 to 7:-

65. Upon the findings recorded under Issue nos.1 to 4, it is held that the plaintiffs have failed to establish that the suit property was inalienable or that defendant nos.1 to 18 had no authority to execute the Sale Deed. Further, no legally enforceable restriction on transfer, nor any fraud, illegality, or defect in title has been proved.

66. Under Section 31 of the Specific Relief Act, 1963, cancellation of an instrument can be granted only when the instrument is void or voidable and causes injury to the plaintiff.

67. In the present case, the plaintiffs have failed to prove that the registered Sale Deed bearing no.9167/2007 is either void or voidable in law. Hence, they are not entitled to the relief of cancellation.

68. P.W.1 Tukaram Dattatray Patil has deposed at Exh.123 that the purchasers may level the suit property and remove grass and trees, which may adversely affect grazing and cause hardship to the villagers. He has further stated that defendant nos.20 and 21 may alter the nature of the property by obtaining non-agricultural permission and use it for construction purposes. However, such apprehension is based on an incorrect premise as to the nature of the land and does not establish any legally enforceable right in

favour of the plaintiffs.

69. In the present case, the plaintiffs have failed to establish any exclusive ownership or enforceable legal right. The mutation entries stand in favour of defendant no.19, and possession is presumed in favour of the purchaser based on the revenue record. In absence of proof of an existing legal right, the plaintiffs are not entitled to injunction. In view of the findings recorded on the above issues, the plaintiffs are not entitled to any reliefs sought. Accordingly, issue nos. 5 and 6 are answered in the Negative. In view of the findings recorded on the above issues, issue no.7 is answered accordingly, and the following order is passed.

ORDER

1. The suit stands dismissed.
2. Decree be drawn up accordingly.

(Dictated and pronounced in open Court).

Panvel

Date : 31/03/2026

(A.S. Badgujar)

2nd Jt.Civil Judge Senior Division,
Panvel.