

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
SECOND APPEAL NO. 328 OF 2014  
WITH  
INTERIM APPLICATION NO.3178 OF 2023  
WITH  
INTERIM APPLICATION NO. 3175 OF 2023  
WITH  
INTERIM APPLICATION NO. 3173 OF 2023  
WITH  
INTERIM APPLICATION NO. 2776 OF 2026  
WITH  
INTERIM APPLICATION NO. 3174 OF 2023**

Shri. Alamkhan Alias

Kutub- Alam and Ors. ... Appellants

Vs.

Shri. Sayyad Gaus Karim and Ors. ... Respondents

Mr. S. G. Deshmukh a/w Ms. Rashmi Shirke i/by Mr. Ramdas  
Shelke for appellants.

**CORAM : GAURI GODSE, J.**

**DATE : 29<sup>th</sup> APRIL 2026**

**ORDER :**

1. The second appeal is admitted on following substantial  
questions of law :-

- a. When the suit was filed for possession and injunction based on a cause of action that arose after the suit property was released from the notification under the Maharashtra Slum Area (Improvement, Clearance and Redevelopment) Act 1971, whether the suit could have been

dismissed on the ground that it was barred by limitation ?

- b. The defendants did not claim any independent right in respect of the suit property hence, whether the suit for possession could have dismissed as barred by limitation in as much as it was filed on the ground of title and refusal by the defendants to vacate the suit property ?
- c. Whether, both the impugned judgments and decrees are unsustainable on the ground that they suffer from misappreciation of the pleadings and evidence on record ?
- d. Whether, the prayer for possession could have dismissed on the ground of insufficient description of property when the suit properties was specifically described with boundaries in the plaint?
- e. Whether, the issue regarding adverse possession by the defendants would be relevant for deciding the point of limitation in as much as the defendants have disputed the plaintiff's title on the ground that, the suit property belongs to the government ?

2. Call for records and proceedings.

3. Printing is dispensed with.
4. Learned advocate for the appellants shall file a private paper-book within a period of one year from today.

**INTERIM APPLICATION NO. 3178 OF 2023**

5. Issue notice to respondents returnable on 22<sup>nd</sup> July 2026.

6. In addition to the court notice, learned Advocate for the applicant to serve the remaining respondents by private notice and file service affidavit before the next date.

7. Learned advocate for the applicant shall ensure that copies are supplied and the court notice is issued by taking humdast.

**INTERIM APPLICATION NO. 2776 OF 2026**

8. This application is for bringing on record the names of heirs and legal representatives of deceased appellant no.3.

9. The application is filed within time.

10. The Interim Application is allowed in terms of prayer clause 4(ii).

11. Amendment to be carried out within 4 weeks.

**INTERIM APPLICATION NO. 3173 OF 2023**

12. This application is for permission to show respondent no.2 as deceased and represented through respondent nos. 1, 3, 4 and 5 who are already on record in different capacity. Since the heirs are already on record in different capacity there is no question of any delay.

13. The Interim application is allowed in terms of prayer clause 5(i) and 5(ii).

14. Amendment to be carried out within 4 weeks.

**INTERIM APPLICATION NO. 3174 OF 2023**

15. This application is to bring on record names of heirs and legal representatives of respondent no.7.

16. I have perused the application. For the reasons stated in the application, delay if any is condoned.

17. The Interim Application is allowed in terms of prayer clause 5(i) and 5(ii).

18. Amendment to be carried out within 4 weeks.

**[GAURI GODSE, J.]**