

VRJ

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

**SECOND APPEAL NO.499 OF 2025  
WITH  
INTERIM APPLICATION (ST.) NO.28923 OF 2025  
IN  
SECOND APPEAL NO.499 OF 2025**

Damodar Krushnaji Maajgavkar  
Through Legal Heir  
Usha Damodar Maajgavkar ... Appellant  
**V/s.**  
Salim Babamiya Shaikh & Ors. ... Respondents

Mr. Pandit Kasar for the appellant.

**CORAM : S. G. CHAPALGAONKAR, J.**

**DATED : SEPTEMBER 25, 2025**

**P.C.:**

1. Appellant is defendant in Regular Civil Suit No. 2 of 2022. Respondents instituted suit seeking a declaration that order dated 3rd November 2021, passed by Tahsildar, Satara, in respect of land Survey No. 305/7, is null and void and not binding on the rights of plaintiffs. Respondents further sought a decree of perpetual injunction restraining appellant from disturbing their possession on the basis of order passed by Tahsildar
2. The appellant filed an application under Order VII Rule 11(d) of the Civil Procedure Code, 1908, seeking rejection of

plaint on the ground that suit is barred by law. Trial Court accepted appellant's claim and recorded a finding that Civil Court has no jurisdiction to try and entertain suit in view of Section 85 of the Maharashtra Tenancy and Agricultural Lands Act, 1948.

3. The plaintiffs filed Regular Civil Appeal No. 39 of 2025 before District Judge, Satara, who reversed finding of Trial Court and allowed the appeal, holding that Civil Court has jurisdiction to try and entertain said suit.

4. Learned advocate appearing for appellant submits that principal relief sought in the suit is for declaration against the order passed by competent authority under Maharashtra Tenancy and Agricultural Lands Act, 1948. The decree for perpetual injunction is a consequential relief. Appellate Court erroneously appreciated factual and legal aspects of matter and allowed appeal. In this background, he presses into service following substantial questions of law :

“(b) Whether the order passed by the Tahsildar under Section 29 of the Maharashtra Tenancy and Agricultural Lands Act, 1948 can be challenged under Civil Jurisdiction before the Learned Civil Court?

(c) Whether the bar imposed under Section 85 of the Maharashtra Tenancy and Agricultural Lands Act, 1948 is subjective in nature and not absolute bar?

(e) Whether the order passed by the Learned District Judge of Satara in Regular Civil Appeal No.39 of 2025 erred in considering the jurisprudence of Order 7 Rule 11 of Civil Procedure Code, 1908?”

5. In light of the aforesaid proposed substantial questions of law, issue notice to respondents, returnable on **20<sup>th</sup> November**

2025.

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6. Heard.

7. Issue notice to respondents, returnable on **20<sup>th</sup> November 2025.**

8. Till returnable date, there shall be ad-interim relief in terms of prayer clause (a).

**(S. G. CHAPALGAONKAR, J.)**