Supreme Court of India
Gaiv Dinshaw Irani & Ors vs Tehmtan Irani & Ors on 25 April, 1947
Author: .....J.
Bench: Gyan Sudha Misra, Pinaki Chandra Ghose

Reportable

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4887 OF 2014
(Arising out of SLP (C) No.22742 of 2005)

Gaiv Dinshaw Irani & Ors. .…
Appellants

Vs.

Tehmtan Irani & Ors.
....Respondents

WITH

CIVIL APPEAL NO.4888 OF 2014
(Arising out of SLP(C) No.22772 of 2005)

J U D G M E N T

Pinaki Chandra Ghose, J.

1. Leave granted.

2. These appeals are directed against the judgment and order dated September 30, 2005 in First Appeal No. 970/1995 with First Appeal No.1075/1995 passed by the High Court of Bombay. The High Court allowed both these appeals; set aside the judgments and decree passed by the Trial Court in both the suits; and decreed both the suits, i.e., Long Cause Suit No.1914 of 1983 as well as Long Cause Suit No.1877 of 1985 in terms of the prayers. The High Court further directed the defendants to immediately place the plaintiffs in possession of the five flats which were kept reserved by virtue of the interim orders passed by the High Court from time to time; and the stay on the Bombay Municipal Corporation regarding the development of the remaining property was directed to be vacated.

3. The facts of the case briefly are as follows:

1. One Bomanji Irani, who is the predecessor of appellants herein, acquired tenancy rights in respect of the premises admeasuring 6500 sq. yds., known as ‘Irani Wadi’, situated at Mazgaon, Mumbai.

This premises comprised of residential Bungalow, open land used for Nursery, and Mali's quarters, hereinafter referred to as the suit premises. Bomanji executed a Will dated October 15, 1934 in favour of his children and wife Daulatbai, appointing Daulatbai as a residuary legatee of the Will. Bomanji Irani died on September 27, 1946 leaving behind his wife Daulatbai; five sons, namely (1) Ardeshir (2) Jehangir (3) Framroze (4) Dinshaw and (5) Homi; and three daughters, namely (1) Ketayun (2) Homai and (3) Nargis. The Will was probated with consent of all the legal heirs and Daulatbai had rights over the suit premises and the tenancy rights which, as claimed, cannot be bequeathed as per law. Daulatbai executed a Will on January 2, 1949 in favour of her son Dinshaw who was the original defendant No.2. However, the said Will was not probated.

2. The then Bombay Municipal Corporation (being Respondent No.6, hereinafter referred to as 'BMC') acquired ownership rights in respect of the suit premises and on September 19, 1961 issued eviction notices to the heirs and legal representatives of Bomanji, comprising Daulatbai and five sons. In response to the eviction notices, the legal heirs and representatives of Bomanji objected to the same but they consented to the tenancy being transferred in the name of Dinshaw Irani (original defendant No. 2).

3. On February 3, 1962 Daulatbai addressed a letter to the BMC requesting for transfer of rent bills in the name of her son Dinshaw (original defendant No. 2). The BMC ignored the objection raised and passed an eviction order dated October 24, 1963 against the heirs and legal representatives of Bomanji. Against the said eviction order passed by the BMC, the heirs and legal representatives of Bomanji jointly filed a suit as joint tenants, being Suit No.5451/1963. Daulatbai died during the pendency of this suit. On July 11, 1977 the said suit was decreed in favour of the plaintiffs and the order passed by the BMC terminating the tenancy was set aside. By letter dated September 18, 1981, BMC transferred the tenancies in favour of Dinshaw, subject to certain conditions including that a portion of land should be surrendered to BMC, which was objected to by respondent No.5 (Peshotan, son of Homi Irani). Consequently, on the request of Dinshaw Irani the tenancy in respect of Mali's quarters, Nursery garden, florist shop and farm house was transferred in favour of Dinshaw Irani. Respondent No.1 (son and legal heir of deceased Ardeshir Irani) and respondent No.5 again objected to the transfer of tenancy in the name of Dinshaw Irani.

4. Dinshaw Irani submitted a proposal to the BMC for handing over 4000 sq. yds. of the suit premises to the Corporation by retaining the remaining 2500 sq. yds. for himself. He also stated in the proposal that as his two brothers do not want to move in with him, they should be provided with alternative accommodation.

5. The respondents (legal heirs of Homi and Ardeshir Irani) on coming to know about the transfer of tenancy of the suit premises, issued a notice dated October 28, 1982 under Section 527 of the Bombay Municipal Corporation Act, 1888 (hereinafter referred to as 'the Act') and subsequently on March 23, 1983, filed Long Cause Suit No.1914 of 1983 challenging transfer of tenancy before the City Civil Court at Bombay. During the pendency of the aforementioned suit, Dinshaw agreed to surrender the tenancy in respect of the suit premises in favour of BMC and the Corporation in exchange granted a lease of sixty years on a part of the suit premises, being land admeasuring 1152 sq mts. bearing CS No. 366-67 (Part) Mazgaon and on November 30, 1983 lease deed of the said plot

in favour of Dinshaw Irani was executed.

6. Admittedly, Dinshaw Irani began construction on the said plot of land admeasuring 1152 sq mts. in September, 1984. Respondent Nos.1 to 5 filed a suit being Long Cause Suit No.1877 of 1985 before the City Civil Court at Bombay, challenging the surrender of tenancy and the grant of said fresh lease in favour of Dinshaw Irani. Dinshaw Irani filed written statements in both the suits and denied the averments in the plaints and claimed that he alone was the tenant of the suit premises and had carried out the business of nursery/florist till his mother's lifetime and thereafter he was entitled to the tenancy in light of the Wills of deceased Bomanji and Daulatbai. The BMC being defendant No.1 in both the suits also filed its written statement in Long Cause Suit No.1914 of 1983 stating that the tenancy was transferred in the name of Dinshaw Irani on the basis of the documents produced by him in support of the same (being the Wills of deceased Bomanji and Daulatbai; the partnership deed between Daulatbai and Dinshaw Irani and the consent letter given by the other sons of Bomanji and Daulatbai). During the pendency of the said suit, Dinshaw Irani expired on December 2, 1988.

7. The plaintiffs, who are respondent Nos.1 to 5 herein, sought certain interim reliefs by filing Notice of Motions in both the long cause suits. The Trial Court on April 11, 1988 disposed of the Notice of Motions and granted an interim injunction restraining the defendants in the suit from disturbing the possession of the plaintiffs of certain parts of the bungalow which was occupied by them. Dissatisfied with this order, the plaintiffs preferred Appeal against Order (A.O.) No.438/1988 before the High Court and the learned Single Judge in Civil Application No.1481 of 1988 passed an order dated April 20, 1988 allowing the defendants to proceed with the construction work subject to the condition that during the pendency of the appeal and ninety days after the defendants were to retain five flats and rights arising therefrom. While disposing of A.O. No.438 of 1988 on October 16, 1991, the High Court directed that both the suits be disposed by the Trial Court by April, 1992; that the restriction for creation of third party rights with respect to the five flats reserved be continued; and the interim order in Notice of Motion No.1459 of 1985 restraining the defendants from disturbing the possession of the plaintiffs in the suit premises be continued.

8. The City Civil Court dismissed both the suits by two separate judgments. The findings of the Trial Court in Long Cause Suit No.1914 of 1983 was that the plaintiffs failed to prove joint tenancy and therefore the transfer of rent bills in the name of defendant No.2 was not illegal. In Long Cause Suit No.1877 of 1985, the Trial Court held that as the plaintiffs failed to prove their case of joint tenancy, the surrender of tenancy in favour of BMC was not hit by an illegality and the lease granted to him is legal and valid.

9. Aggrieved by the aforementioned judgments passed by the Trial Court, the respondents preferred two separate appeals being First Appeal No.970 of 1995 filed against order in Long Cause Suit No. 1914 of 1983 and First Appeal No.1075 of 1995 filed against Long Cause Suit No. 1877 of 1985.

10. The High Court by a common judgment and order dated September 30, 2005, allowed both the first appeals and held that the original plaintiffs (respondents herein) were joint tenants with original defendant No.2 (appellant herein); consequently, the surrender of tenancy by defendant

No.2 in favour of BMC was illegal and the transfer of tenancy by BMC in the name of defendant No.2 was incorrect, void and not binding upon the plaintiffs. Resultantly, the judgments and orders of the Trial Court were set aside and the reliefs prayed for in the suits filed by the plaintiffs were allowed by the High Court. However, the High Court directed appellants to handover possession of the five flats to respondent Nos.1 to 5. Aggrieved by the judgment and order passed by the High Court, these appeals have been filed before us.

4. The appellants before us have challenged the impugned judgment and order passed by the High Court mainly on five grounds and made a proposal during the course of hearings for balancing the equities.

5. Learned senior counsel appearing on behalf of the appellants submitted that the transfer of tenancy in favour of the appellants by BMC was correct on the grounds firstly, that the appellants derive their title from the probated Will of Bomanji and Will of Daulatbai and the letter dated October 25, 1962 issued by all the heirs of Bomanji consenting to transfer of tenancy in favour of Dinshaw and the letter dated February 3, 1962 issued by Daulatbai to BMC requesting for transfer of tenancy in favour of Dinshaw. Secondly, that Daulatbai as a residuary legatee inherited the tenancy rights and took charge of the florist business with her son Dinshaw as noted by the Trial Court; furthermore, Daulatbai by her Will, transferred the nursery business to Dinshaw and transferred the tenancy in favour of Dinshaw by letters dated October 25,1961 and February 3, 1962, Thirdly, the nursery business and the suit premises are exclusively in the control of Daulatbai and Dinshaw; and that Ardeshir being the step-son of Daulatbai was not entitled to inherit from her and the three sons of Bomanji, namely, Ardeshir, Homi and Jahangir are not concerned with the nursery business and the suit premises. Fourthly, the Trial Court after properly considering documents on record concluded that the appellants were in exclusive and uninterrupted possession of the suit premises and they were exclusively doing the nursery business as absolute owners, a fact which has not been challenged by the respondents. Fifthly, the High Court has incorrectly given a finding that neither Will nor consent letter confer any exclusive right on the appellants on the ground that Daulatbai and five sons of Bomanji had jointly filed Suit No.5451 of 1963 against BMC to challenge the eviction order without considering that the nursery business was being carried on by Daulatbai and Dinshaw and that nowhere the factum of joint tenancy has been admitted in the said suit, which never determined the issue of joint tenancy. Sixthly, that BMC after duly considering all the facts and relevant documents, correctly transferred the tenancy in favour of Dinshaw. Seventhly, the plaintiffs in the suit had not made any prayer for declaration of right to joint tenancy or claimed any other rights or possession. Lastly, that High Court did not consider the cogent findings of the Trial Court, especially the finding that effect of the transfer of rent receipts would be that the respondents are dispossessed from the suit premises and at least from the nursery which was a distinct tenancy and in the absence of a prayer for possession, the suit was bad in law.

6. The second submission made by the learned senior counsel appearing on behalf of the appellants is that the High Court acted in excess of its powers in granting the relief which was beyond the subject matter of the suit in an appeal under Section 96 of the Code of Civil Procedure, 1908, as there were no prayer and pleadings for the same. In light of the same, it has been contended that the relief claimed in both the suits was limited to the transfer of rent receipts by BMC in favour of

Dinshaw, the surrender of tenancy by Dinshaw and subsequent grant of lease in his favour by BMC. Furthermore, there was no claim for relief of partition as granted by the High Court and/or the surrender of tenancy and permission to develop balance suit premises by respondent No.6, being BMC. The learned counsel has relied on the cases of Shiv Kumar Sharma vs. Santosh Kumari[1] and Bachhaj Nahar vs. Nilima Mandal and Anr.[2] in support of his contention. It is further contended that the High Court erred in holding that the building of the appellant would become illegal as the respondents claim a right in the existing bungalow and would also get a right in the 1152 sq.mts. plot leased to Dinshaw if the original suit is decreed. That the lease of 1152 sq. mts. was based entirely on needs and entitlement of Dinshaw and it was in lieu of his tenancy rights alone in the compound of Irani Wadi except the residential portion in possession of his two brothers (Ardeshir and Homi) for whom BMC had undertaken to provide them accommodation. Furthermore, it was contended that if BMC does not honour its resolution of providing alternative accommodation to respondent Nos. 1 to 5, subject to their rights, then the entire property of 5950 sq.mts. must revert back to Dinshaw Irani and that BMC then has no right to develop the same along with a builder, which is in violation of the status quo order dated November 18, 2005 passed by this Court. That there was no prayer for possession of any flats entitled to respondent Nos. 1 to 5 and the High Court's order that respondent Nos.1 to 5 representing only two branches are entitled to five flats as 6/15th share is incorrect without any specific pleading and in the absence of a dispute regarding the inter se rights of the parties.

7. It is also submitted by the appellants that they expended the entire amount in the construction of the building and they had to rent out nine flats for the same and out of the remaining five flats the appellants are residing in two flats and one is given on leave and license. The effect of the plaintiffs' suit (being respondent Nos.1 to 5) being decreed is that entire 6500 sq. yards be surrendered to BMC and then the shares of all heirs of Bomanji, be worked out. The same could not have been directed or determined in the absence of any pleadings even if it is assumed that the respondent Nos. 1 to 5 have a share in the 1152 sq.mts. plot leased to the appellants.

8. The third ground raised by the learned senior counsel on behalf of the appellants is that BMC being respondent No.6 herein can develop the balance plot only in terms of the resolution dated September 28, 1983. In this connection, it has been submitted that the lease of 1152 sq.mts. plot granted to Dinshaw was subject to the condition that BMC provides alternate accommodation to his two brothers as per the resolution. That in case of BMC's inability to honour the said resolution dated September 28, 1983, the entire property i.e. 5950 sq. mts. must revert back to Dinshaw and BMC has no right to develop the same as it will be in violation of the status quo order passed by this Court and that in no event respondent Nos. 1 to 5 have any right in 1152 sq.mts. plot and even if they have any right, then they are to be accommodated by BMC on the balance land. Thus, it was requested that it will be just and equitable if BMC accommodates respondent Nos.1 to 5 on balance land or as per the resolution dated September 28, 1983.

9. Fourth submission made on behalf of the appellants is that the finding on fraud could not have been granted in the absence of pleadings and evidence to make out a case of fraud. In this regard, learned senior counsel has placed reliance on the case of Sangramsinh P. Gaekwad & Ors. vs. Shantadevi P. Gaekwad & Ors[3].

10. The last and final ground raised by the learned senior counsel for the appellants is that in no event respondent Nos. 1 to 5 are entitled to five flats. It is submitted that out of the fourteen flats the appellants are residing in two flats, one is vacant and the other is given on leave and licence. That only an injunction was granted by the High Court in respect of the five flats out of which three were occupied by the appellants and two were reserved for the Government under the Urban Land (Ceiling & Regulation) Act, 1976. Therefore, not more than three flats could be meant for respondents Nos.1 to 5. That the direction of the High Court bestowing five flats is incorrect in the absence of any specific pleading in the suit or appeal and without any affidavit filed in this regard by the plaintiffs/respondents and without the appellants placing their case regarding entitlement of respondent Nos. 1 to 5, who represent only two branches and not all the five brothers. It has been argued that the order of the High Court granting five flats to the respondents gravely prejudices the rights of the appellants in the light of the above and that they will be evicted from their homes. Therefore, it has been prayed that the respondents be granted only three flats.

11. Learned counsel appearing on behalf of respondent No.1 has contended before us that that the claim of the appellants that Dinshaw solely acquired the tenancy rights is false. In support of this contention, he submitted that as stated by the Trial Court there can be no bequest of tenancy rights and same did not devolve upon Disnhaw through the Wills of Bomanji and Daulatbai. Furthermore, the Will of Daulatbai was not probated and no right is asserted by such a Will. Even if reliance is placed on the Will of Daulatbai, it clearly states that only nursery business and not the tenancy is bequeathed to Dinshaw. That BMC and all the parties including Daulatbai and Dinshaw, always considered all the heirs of Bomanji to be joint heirs evident from the material on record. Furthermore, the City Civil Court in Suit No. 5451 of 1963 clearly recorded that undisputedly after Bomanji's death his sons and Daulatbai became the tenants in the suit premises; Dinshaw from the death of Bomanji till 1977 asserted that all the sons of Bomanji were monthly tenants with respect to the property and in judicial proceedings leading to decree in favour of Dinshaw on that basis. The fact also attained finality in Suit No.5451 of 1963 and the same stand would be barred by principle of res judicata and the same has been noted by the High Court.

12. Learned counsel appearing for respondent No. 1 has also contended that reliance by BMC on letter dated October 25, 1961 is mala fide and erroneous. BMC purported to transfer the tenancy exclusively in the name of Dinshaw Irani by relying upon the said letter which is two decades old, addressed on behalf of Daulatbai and five sons stating that they had no objection to the transfer of tenancy in the name of Dinshaw. That the said letter was issued for convenience sake to enable Dinshaw to contest the eviction suit of 1963, wherein it was pleaded by all the heirs of Bomanji that they are joint tenants and the position continued till 1977 when Suit No.5451 of 1963 was decreed; and that BMC in light of the said decree to which it was also a party, could not have accepted surrender of tenancy exclusively by Dinshaw on the basis of the said letter. That the High Court after considering the evidence on record and conduct of the parties, correctly held that the said letter was for the transfer of rent receipts only, in favour of Dinshaw. That the reliance placed by BMC on a two decades old letter for a transfer is incorrect. Furthermore, even if the consent given in 1961 is assumed to be correct then it must be noted that same stood expressly withdrawn by letter dated December 22, 1980 which was admittedly received by BMC on February 2, 1981, before the letter of 1961 was acted upon. It has been contended that BMC despite being aware of the revocation of the

consent, transferred the tenancy exclusively in favour of Dinshaw and suppressed the same from the respondents even after the transfer and stated that it "proposed to transfer tenancy in favour of Dinshaw" in a subsequent letter. Thus, the High Court has correctly noted that conduct of BMC lacked bonafide and such finding has not been challenged by the BMC.

13. The next submission made by the learned counsel for respondent No. 1 is that the moulding of relief by the High Court is just and equitable and in fact confers the appellants with benefits more than they are entitled, therefore requiring no interference from this Court. In light of the same, it has been put forth by the learned counsel that having found the transfer of tenancy to be illegal, all the later developments become void ab initio; and to reverse the position the course would have been to demolish the building constructed on the plot leased to Dinshaw. Learned counsel representing respondent No.1 further submitted that the High Court correctly moulded the relief and directed that the five flats be handed over to the respondents, as the construction was allowed to be made on the plot subject to the outcome of the first appeal and on the condition that five flats be kept apart. Furthermore, it has been submitted that appellants representing only one branch are receiving nine flats and the full other wing of the building comprising of fourteen tenements rented out by the appellant, whereas the respondents representing two branches are receiving only five flats. It is also contended that the appellants have deprived the respondents of their extremely valuable tenancy rights in respect of a huge original plot and in an agreement with BMC accepted a much smaller newly allotted plot on which the construction was at the risk of the appellants, in this factual matrix the grievance of the appellants that they have incurred construction costs does not hold good. Furthermore, the respondents have been enjoying the benefits arising from the new plot leased to Dinshaw by BMC since 1997.

14. In addition to the above, respondent No. 1 has also challenged the submissions made by the appellants. Firstly, it has been stated that the appellants without pointing out any perversity in the order of the High Court seek re-appreciation of the entire facts and evidence before this Court. Secondly, it has been pointed by the learned counsel that Daulatbai even after death of Bomanji accepted all the sons as joint tenants and the stand of the appellants is an afterthought. Furthermore, the reliance on the un-probated Will of Daulatbai is also incorrect in light of Section 213 of the Indian Succession Act, 1925 which clearly states that in case of Wills made by Parsis no legatee can claim any right unless the same is probated; and that the Will only transfers business of nursery. Thirdly, it has been stated that the appellants' pleading that BMC should provide alternate accommodation to respondent Nos.1 to 5 is an admission of their rights; in fact, till date three respondents are staying in the bungalow on the suit premises. Fourthly, the appellants are estopped from making an argument contrary to their stand taken in the 1963 suit. Fifthly, it has been submitted that the contention of the appellants that BMC can develop property only in terms of resolution dated September 28, 1983; or any other grievance with BMC cannot be agitated in the present proceedings; and that in face of an adverse order the appellants cannot shift their responsibility to BMC, thereby confronting the respondents with a fait accompli. Learned counsel for respondent No.1 has finally contended that the submission of the appellants with regard to the findings of the High Court that the transfer of tenancy was 'fraudulent' or the same was done 'fraudulently' is beyond the pleading and therefore ought to be expunged, is baseless as the respondents already contended that the transfer of tenancy is 'mala fide'.

15. Learned counsel for respondent Nos. 2 to 5 and 13 to 14 have submitted that after the demise of Bomanji on September 27, 1946, his tenancy devolved upon his widow and five sons which was duly accepted by BMC. Thereafter, one of the five sons tried to usurp the entire tenancy in his favour and the same was the subject matter under challenge in Long Cause Suit No.1914 of 1983. However, during the interregnum, the High Court restrained original defendant No.1 from creating any third party rights. It was vehemently argued that the appellants' case was absolutely misconceived and baseless as is evident from the observations of the City Civil Court that: (i) there could be no bequest of tenancy rights; and (ii) that an unprobated Will was only with respect to the florist business and not the tenancy rights in aggregate.

16. Respondent Nos. 2 to 5 and 13 to 14 also submitted that it is admitted by Daulatbai that she along with her five sons became monthly tenants of the suit premises. Upon show cause notices being issued by BMC to all the legal heirs of Bomanji, the aforesaid position came to be reiterated by the latter. It is alleged that this reiteration, in itself, buttressed the point that they were joint-tenants in possession of the suit premises. That the falsity of the claim of the appellants is crystal clear in light of the fact that they along with the respondents filed Suit No.5451 of 1963 challenging the eviction notices served by BMC. Furthermore, the City Civil Court by judgment dated October 11, 1977 also observed that after the demise of Bomanji, the appellants and respondents therein had become the tenants of the suit property, a fact which attained finality as the same was never challenged. It was also submitted that the plea of adverse possession argued before the High Court had failed to cut any ice with the Division Bench in that no issues were framed and no evidence was led by the appellants.

17. It was further submitted by respondent Nos. 2 to 5 and 13 to 14 that in spite of the letter dated October 25, 1961 purportedly authored by Daulatbai and her five sons to BMC seeking transfer of tenancy in the name of Dinshaw, BMC served all of them with eviction notices and they jointly replied to the same. Furthermore, in light of the unchallenged decree dated October 11, 1977 where all the legal heirs were stated to be 'joint-tenants', the purported 'consent letter; loses its efficacy. Thus, the High Court has correctly observed that the intent of the consent letter was to transfer the rent receipts only in the name of Dinshaw It is also submitted that in the wake of the letter dated February 2, 1982 addressed to P.H.Irani by the Senior Ward Officer, E-Ward seeking objections to the transfer of rent receipts in favour of Dinshaw Irani indicates that objections to the transfer of tenancy were not decided and the rent receipts were not transferred, thereby bringing the legality of the transfer of tenancy under a cloud of doubt. In addition thereto, the learned counsel has drawn our attention to the fact that BMC transferred the tenancy way back in 1981 based on a two decades old letter without going into the requisite clarification from the parties, especially in light of the fact that the respondents were averse to transfer of rent receipts in favour of Dinshaw Irani or his son. It has been contended that such conduct of BMC in acting after a period of about 20 years raises eyebrows, and the same is rightly termed as 'mala fide'. Finally, it is contended that the relief granted by the High Court was based on equity and once the transfer of tenancy was held to be illegal, whatever illegality follows will be 'void ab initio'.

18. Learned senior counsel appearing on behalf of respondent No.6 being BMC, submitted that the appellants filed this appeal with the mala fide intention to usurp the BMC land i.e. the suit premises.

It is submitted that the dispute in the present case has been narrowed down to five flats by the courts below, which are solely in possession of the appellants herein. That by the impugned order dated September 9, 2005 the High Court allowed the first appeals filed by respondent Nos.1 to 5 herein and directed the appellants to hand over five flats kept reserved. The High Court specifically observed that construction on the 'new plot' by the appellants was allowed by virtue of the interim order passed by the High Court during the pendency of the suits before the trial court, and five flats were reserved to protect the interest of respondent Nos.1 to 5.

19. It is further submitted on behalf of respondent No.6 that the statement that the family member of the appellants are occupying these five flats, is false and frivolous and the same is made to gain sympathy of this Court. Secondly, it is submitted that as per the orders passed by the High Court, conditional permission was granted to the appellant to proceed with the construction, and the High Court was correct in handing over the five flats to respondent Nos.1 to 5. That the original defendant No.2 and the respondents before the High Court have filed this appeal by special leave and this Court has passed status quo order in respect of the suit premises. Thirdly, it is submitted that the Municipal Corporation of Greater Mumbai's (then BMC) development work has been stalled due to the status quo order passed by this Court, and that the appellant obtained the same without serving any notice upon respondent No.6. It is further submitted that BMC requires the land for development of Municipal School, Municipal Employees Quarters and Staff Quarters and it is unable to carry out the same due to the ongoing dispute between the family members. Fourthly, it is submitted that irrespective of the outcome of the present appeals, respondent No.6 would be entitled to 4798 sq. mts. out of the suit premises which was acquired by it in the year 1984. Fifthly, it is submitted that the appellants are trying to challenge the surrender of 4798 sq. mts. of land in favour of BMC by this appeal and the same is illegal as they never challenged the said surrender of tenancy done as far back as on January 12, 1984. Instead, they have supported the said surrender of tenancy throughout and are therefore estopped from taking a stand to the contrary at this stage. It is therefore the submission of BMC that the present appeal by special leave petition be dismissed and the parties be directed to comply with the impugned order dated September 30, 2005 passed by the High Court.

20. After considering the arguments an submissions and perusing the documents placed on record we are of the opinion that the present appeals stem out of two primary issues firstly, the issue of rights over the tenancy; and secondly, the validity of the judgement and order of the High Court is challenged on the ground that it is in excess of powers of an appellate Court under Section 96 of the Code of Civil Procedure.

21. The appellants have claimed before us that leasehold tenancy rights can be bequeathed as against the holding of the Trial Court in Long Cause Suit No.1914 of 1983 which has held that "it is well established principle that tenancy rights cannot be bequeathed". The divesting of tenancy rights by means of a Will is a highly debated topic and is subject to the tenancy laws of the concerned State. In the present matter, the tenancies being the suit premises are owned by the local authority of Mumbai and are subject to the State Act being the Bombay Rents, Hotel And Lodging House Rates Control Act, 1947 (hereinafter referred to as the "Bombay Rent Control Act). The said Act, since repealed, exempts the present tenancy from its purview as per Section 4 (1). The BMC Act is

also silent on this aspect. Therefore, we will discuss the existing jurisprudence regarding the same.

22. In the case of Gian Devi Anand vs. Jeevan Kumar & Ors.[4] four Judges of a five-Judge Constitution Bench held that the rule of heritability extends to statutory tenancy of commercial as well as residential premises in States where there is no explicit provision to the contrary and tenancy rights are to devolve according to the ordinary law of succession unless otherwise provided in the statute. This Court in Bhavarlal Labhchand Shah vs. Kanaiyalal Nathalal Intawala[5] referring to the Bomaby Rent Control Act, 1974 held that in a contractual tenancy, a tenant of a non-residential premises cannot bequeath under a Will his right to such tenancy in favour of a person who is a stranger to the family, being not a member of the family, carrying on business. With respect to residential tenancy, this Court left the question open and held:

"...we do not propose to deal with the wider proposition that a statutory tenancy which is personal to the tenant cannot be bequeathed at all under a will in favour of anybody. We leave the said question open."

23. This Court in Vasant Pratap Pandit vs. Dr. Anant Trimbak Sabnis[6] while deciding upon the rights of a statutory tenancy under the Bombay Rent Control Act was of the opinion that bequest of tenancy rights is impermissible and stated that:

> "14. From a plain reading of Section 5(11)(c)(i) it is obvious that the legislative prescription is first to give protection to members of the family of the tenant residing with him at the time of his death. The basis for such prescription seems to be that when a tenant is in occupation of premises the tenancy is taken by him not only for his own benefit but also for the benefit of the members of the family residing with him. Therefore, when the tenant dies, protection should be extended to the members of the family who were participants in the benefit of the tenancy and for whose needs as well the tenancy was originally taken by the tenant. It is for this avowed object, the legislature has, irrespective of the fact whether such members are 'heirs' in the strict sense of the term or not, given them the first priority to be treated as tenants. It is only when such members of the family are not there, the 'heirs' will be entitled to be treated as tenants as decided, in default of agreement, by the court. In other words, all the heirs are liable to be excluded if any other member of the family was staying with the tenant at the time of his death." When Section 15, which prohibits sub-letting, assignment or transfer, is read in juxtaposition with Section 5(11)(c)(i) it is patently clear that the legislature intends that in case no member of the family as referred to in the first part of the clause is there the 'heir', who under the ordinary mode of succession would necessarily be a relation of the deceased, should be treated as a tenant of the premises subject, however, to the decision by the court in default of agreement. The words "as may be decided in default of agreement by the Court" as appearing in Section 5(11)(c)(i) are not without significance. These words in our view have been incorporated to meet a situation where there are more than one heirs. In such an eventuality the landlord may or may not agree to one or the other of them being recognised as a 'tenant'. In case of such disagreement the court has to decide

> who is to be treated as 'tenant'. Therefore, if 'heir' is to include a legatee of the will then the above-quoted words cannot be applied in case of a tenant who leaves behind more than one legatee for in that case the wishes of the testator can get supplanted, on the landlord's unwillingness to respect the same, by the ultimate decision of the court. In other words, in case of a testamentary disposition, where the wish or will of the deceased has got to be respected a decision by the court will not arise and that would necessarily mean that the words quoted above will be rendered nugatory. What we want to emphasise is it is not the heirship but the nature of claim that is determinative. In our considered view the legislature could not have intended to confer such a right on the testamentary heir. Otherwise, the right of the landlord to recover possession will stand excluded even though the original party (the tenant) with whom the landlord had contracted is dead. Besides, a statutory tenancy is personal to the tenant. In certain contingencies as contemplated in Section 5(11)(c)(i) certain heirs are unable to succeed to such a tenancy. To this extent, a departure is made from the general law."

24. In Sangappa Kalyanappa Bangi vs. Land Tribunal, Jamkhandi & Ors.[7] a dispute pertaining to the Karnataka Land Reforms Act, 1961 this Court held as under:

> "The assignment of any interest in the tenanted land will not be valid. A devise or a bequest under a Will cannot be stated to fall outside the scope of the said provisions inasmuch as such assignment disposes of or deals with the lease. When there is a disposition of rights under a Will, though it operates posthumously is nevertheless a recognition of the right of the legatee thereunder as to his rights of the tenanted land. In that event, there is an assignment of the tenanted land, but that right will come into effect after the death of the testator. Therefore, though it can be said in general terms that the devise simpliciter will not amount to an assignment, in a special case of this nature, interpretation will have to be otherwise."

25. On the contrary this Court in State of West Bengal & Anr. vs. Kailash Chandra Kapur & Ors.[8] while deciding upon the rights of a leasehold land owned by the Government held that :

"Transfer connotes, normally, between two living persons during life; Will takes effect after demise of the testator and transfer in that perspective becomes incongruous. Though, as indicated earlier, the assignment may be prohibited and the Government intended to be so, a bequest in favour of a stranger by way of testamentary disposition does not appear to be intended, in view of the permissive language used in clause (12) of the covenants. We find no express prohibition as at present under the terms of the lease. Unless the Government amends the rules or imposes appropriate restrictive covenants prohibiting the bequest in favour of the strangers or by enacting appropriate law, there would be no statutory power to impose such restrictions prohibiting such bequest in favour of the strangers. It is seen that the object of assignment of the government land in favour of the lessee is to provide him right to residence. If any such transfer is made contrary to the policy, obviously, it would be defeating the public purpose. But it would be open to the Government to regulate by appropriate covenants in the lease deed or appropriate statutory orders as per law or

to make a law in this behalf. But so long as that is not done and in the light of the permissive language used in clause (12) of the lease deed, it cannot be said that the bequest in favour of strangers inducting a stranger into the demised premises or the building erected thereon is not governed by the provisions of the regulation or that prior permission should be required in that behalf. However, the stranger legatee should be bound by all the covenants or any new covenants or statutory base so as to bind all the existing lessees." In H.C. Pandey vs. G.C. Paul[9], this Court held that:

> "It is now well settled that on the death of the original tenant, subject to any provision to the contrary either negativing or limiting the succession, the tenancy rights devolve on the heirs of the deceased tenant. The incidence of the tenancy are the same as those enjoyed by the original tenant." Furthermore in Parvinder Singh vs. Renu Gautam & Ors.[10], it has been held by this Court that:
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> "Tenancy is a heritable right unless a legal bar operating against heritability is shown to exist."
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> 26. The aforementioned cases indicate that in general tenancies are to be regulated by the governing legislation, which favour that tenancy be transferred only to family members of the deceased original tenant. However, in light of the majority decision of the Constitution Bench in Gian Devi vs. Jeevan Kumar (supra), the position which emerges is that in absence of any specific provisions, general laws of succession to apply, this position is further cemented by the decision of this Court in State of West Bengal vs. Kailash Chandra Kapur (supra) which has allowed the disposal of tenancy rights of Government owned land in favour of a stranger by means of a Will in the absence of any specific clause or provisions.

27. Presently, the tenancies are owned by BMC and allegedly by means of a Will, were bequeathed to Daulatbai as a residuary legatee in 1946, such transfer appears to be permissible in light of the Constitution Bench decision. However, as the legal position regarding the permissibility of bequeathing a tenancy by Will in 1946 was not decided, we will rely on the admissions of the parties in regard to the same. The BMC by means of letter dated September 19, 1961 treated all the heirs of Bomanji as joint tenants; and the heirs of Bomanji by means of letter dated October 25, 1961 also claimed themselves to be joint tenants; Daulatbai in her letter dated February 3, 1962 also claimed joint tenancy along with her sons and sought transfer of the rent receipts only in the name of her son Dinshaw. By letter dated November 11, 1962 once again all the heirs of Bomanji's including Daulatbai claimed themselves to be joint tenants in the eviction suit being Suit No. 5451 of 1963. We also find that Daulatbai regarded herself to be a joint tenant with the other sons.

28. Furthermore, Daulatbai only bequeathed the nursery business and not the tenancy to her son Dinshaw and appointed her daughter Ketayun as residuary legatee by means of her Will which was not probated. As per Section 213 of the Indian Succession Act, 1925, when a Will of a Parsi is not probated then no legatee can claim right by means of the same and such testator is treated to have died intestate. As per Section 52 of the Indian Succession Act, prior to the amendment of 1991, a

Parsi female intestate's property shall be divided equally amongst her children and the statute does not distinguish between step-children and children. Thus , the florist/nursery business devolved jointly on the heirs of Daulatbai after her death in 1967. Therefore, the claim of the appellants that the they had exclusive rights over the nursery business does not hold good.

29. In light of the above, we find that the tenancy which was jointly held by her and her sons as admitted by them and recognized by the Trial Court in its judgment dated July 11, 1977, in Suit No. 5451 of 1963, is devolved upon her sons on her death by virtue of their being joint tenants and her heirs under the Indian Succession Act. The original plaintiffs and defendant No.2 always treated and recognized the tenancy as a joint tenancy and the same was also recognized by BMC to be so. This fact attained finality when the finding of the Trial Court in Suit No. 5451 of 1963 that it was "no longer in dispute that after the demise of Bomanji, the Plaintiffs became the tenants in respect of the Suit Properties", was not challenged by any of the parties to the dispute. Moreover, there is nothing on record to show that the other sons or the original plaintiffs denied their stake in the same.

30. Regarding the purported "consent letter" dated October 25, 1961 and the subsequent transfer of tenancy to Dinshaw on September 18, 1981, as admitted by the BMC, we find the same to be illegal and lacking bona fide. In our opinion, in 1961 when the joint tenants were served with an eviction notice, then for the sake of convenience only the "purported" letter of consent dated October 25, 1961 was issued. This letter does not have any validity in law and does not amount to surrender or relinquishment of rights of the original plaintiffs in the suit premises. In a subsequent letter dated February 3, 1962 addressed by Daulatbai to the BMC, Daulatbai sought the transfer of rent receipts only, in the name of Dinshaw. The existence of the said letter is also admitted by the appellants and in the same letter Daulatbai has stated that the tenancy is a joint tenancy. Moreover, the "consent letter" stands passively revoked in light of the pleadings in Suit No. 5451 of 1963 where the heirs of Bomanji including Dinshaw have claimed themselves to be joint tenants in the suit premises and a specific finding of the Trial Court in the said suit is not challenged by any of the parties. We have further noted that Dinshaw with the other three sons Ardeshir, Jehangir and Homi also made a joint representation on August 4, 1975 before the BMC against the eviction notices on the basis of joint tenancy devolving upon them after the death of Bomanji. In light of the aforsesaid discussion, we are of the opinion that the appellants cannot take a stand contrary to what has been pleaded earlier in any legal proceedings. Furthermore, it must be noted any consent given was expressly revoked by letter dated December 22, 1980 addressed on behalf of the plaintiffs and admittedly received by BMC on February 2, 1981. The said letter also acted as a notice under Section 527 of the BMC Act. Thus, the tenancy rights were never transferred exclusively in the name of Dinshaw.

31. In the light of the above, the transfer dated September 18, 1981 by the BMC in favour of Dinshaw Irani based on the letter dated October 25, 1961 is illegal and the reliance on the same by BMC is misplaced. We have taken note of the documents placed on record which clearly and undoubtedly support the above position. In a letter dated February 2, 1981, BMC has accepted the existence of letter dated December 22, 1980. The tenancy was transferred by BMC by means of a letter dated September 18, 1981 and the same was done without inviting any objections for considering the earlier letter of objection. Furthermore, objections were again raised by respondent No.5 by means of letter dated October 22, 1981 and the Senior Ward Officer by means of letter dated February 2,

1982 admitted that since earlier letter of objections was not received by the concerned officer, they wanted a copy of the same letter of objections to decide the case on merits. This letter created a belief that no transfer of tenancy had taken place which is further cemented by the letter dated February 25, 1982 addressed by the Dy. Municipal Commissioner, Shri. P.P. Kamdar, wherein he sought the letter of objections and stated that "on account of the documentary evidence produced by Shri Dinshaw Bomanji Irani, it is proposed to transfer the tenancy in his favour". In the said letter, BMC did not inform the plaintiffs about the transfer on September 18, 1981 and instead created an ambiguous situation. These letters brought on record clearly indicate that no due process was followed wherein objections were sought after the transfer and no proper transfer was made. We have noticed and found that the High Court has correctly held as follows :

"15. 3rd question that arises is, whether giving the consent for transferring the tenancy amounts to relinquishment of rights by all those persons in the suit property in favour of defendant No.2. The answer to the 2nd question is that there is no relinquishment at all in favour of defendant No.2. The consent letter nowhere shows nor a single document is there with the defendant No. 2 to show that the signatory of the consent letter has relinquished, abandoned and given up their tenancy right in the property forever and permanently in favour of the defendant No.2. No such case is put forth by defendant No.2 at any stage. Further there is no reasons why all other signatories of the consent letter should shower all the benefits of tenancy right exclusively upon the defendant No.2. Nothing is brought on record to show that defendant No. 2 had given any privilege to the family or made any sacrifice for the family for which all of them decided to compensate the defendant No.2 by transferring the tenancy. Therefore for all these reasons, it has to be held that transfer of tenancy sought to be achieved by consent letter was only for the sake of convenience. It was not relinquishment of right by other signatories in the suit property. Subsequent conduct of the plaintiff in protesting and apprehending, the delay of 20 years in effecting the transfer are all circumstances that strongly support the case of the plaintiffs and it also disproved the case of the defendant No.2. The plaintiffs have alleged malafides against the BMC in this regard. It is true that the malafides are to be specifically proved against the specific officer but it can be said that the transfer lacks bonafides.

x x x x x x

18. The so called transfer of tenancy is dated 18th September 1981. The defendant No.2 contended that it is legal and proper transfer. The BMC contends that it is a bonafide transfer. But the letter dated 2.2.1982 (Exhibit 16) written by the Senior Ward Office, E-Ward to Shri P.H.Irani is very vital and crucial document. It falsifies both these contentions of the defendant No. 2 and the BMC. The subject of this letter (Exhibit 16) as written in it is "Transfer of rent receipt of C.S.No. 266/67 known as Irani Wadi". There is a reference to the letter of P.H.Irani addressed to Shri P.P.Kamdar about the objection for transfer of rent receipt in the name of Dhinshaw Bomanji Irani, i.e. defendant No. 2 and, the Sr.Ward Officer, who has written this reply, has stated that any objection does not appear to have been received by E Ward Office and, therefore, a request was made to P.H. Irani to send a copy of the same letter and, the purpose of asking for the copy is "so as to enable him to decide on the objections on merits." Then copy of this letter (Exhibit 16) was also sent to the Law Office.

19. This letter of 1982 fully supports and fortifies the contentions raised by the learned Counsel Mr. Naik for the plaintiffs that the transfer of tenancy on 18th September 1981 is not bona fide because even as on 2.2.1982, as per the Sr.Ward Officer of the BMC, there was no transfer of tenancy and objections were to be decided on merits thereafter. I have no hesitation in accepting this submission of learned counsel Mr. Naik for the plaintiffs. Therefore, in this background, it has to be held that transfer of tenancy is suspicious and lacks bonafides." The High Court has correctly opined that the conduct of BMC lacked bona fide and same has not been challenged by the BMC being respondent No.6 before us.

32. In light of the same, we find force in the arguments put forth by the respondents in this regard. Thus, we hold that the transfer of tenancy by BMC in the name of Dinshaw is illegal and void ab initio. Consequently, all the events that follow, being the surrender of part of the tenancy by Dinshaw to BMC in lieu of the new plot allotted to him, are also rendered void ab initio.

33. Since the lease of the 1152 sq. mts executed by BMC in favour of Dinshaw is rendered void ab initio, the construction by the appellants on the said plot is also illegal. The position as it exists today is that the remaining portions of Irani Wadi have been acquired by the BMC; and on the other portion, the structure erected by Dinshaw exists and the portion being the residential bungalow occupied by the respondents may also be acquired by BMC in due course.

34. Considering the aforementioned changed circumstances, the High Court taking note of the subsequent events moulded the relief in the appeal under Section 96 of the Code of Civil Procedure and the same has been challenged by the appellants before us. In ordinary course of litigation, the rights of parties are crystallized on the date the suit is instituted and only the same set of facts must be considered. However, in the interest of justice, a court including a court of appeal under Section 96 of the Code of Civil Procedure is not precluded from taking note of developments subsequent to the commencement of the litigation, when such events have a direct bearing on the relief claimed by a party or one the entire purpose of the suit the Courts taking note of the same should mould the relief accordingly. This rule is one of ancient vintage adopted by the Supreme Court of America in Patterson vs. State of Alabama[11] followed in Lachmeshwar Prasad Shukul vs Keshwar Lal Choudhury[12]. The aforementioned cases were recognized by this Court in Pasupuleti Venkateswarlu vs. The Motor and General Traders[13] wherein he stated that:

"...If a fact, arising after the lis has come to court and has a fundamental impact It is basic to our processual jurisprudence that the right to relief must be judged to exist as on the date a suitor institutes the legal proceeding. Equally clear is the principle that procedure is the handmaid and not the mistress of the judicial process. If a fact, arising after the lis has come to court and has a fundamental impact on the right to relief or the manner of moulding it, is brought diligently to the notice of the tribunal, it cannot blink at it or be blind to events which stultify or render inept the decretal remedy. Equity justifies bending the rules of procedure, where no specific provision or fairplay is violated, with a view to promote substantial justice — subject, of course, to the absence of other disentitling factors or just circumstances. Nor can we contemplate any limitation on this power to take note of updated facts to confine it to the trial court. If the litigation pends, the power exists, absent other special circumstances repelling resort to that course in law or justice. Rulings on

this point are legion, even as situations for applications of this equitable rule are myriad. We affirm the proposition that for making the right or remedy claimed by the party just and meaningful as also legally and factually in accord with the current realities, the Court can, and in many cases must, take cautious cognisance of events and developments subsequent to the institution of the proceeding provided the rules of fairness to both sides are scrupulously obeyed." The abovementioned principle has been recognized in a catena of decisions. This Court by placing reliance on the Pasupuleti Venkateswarlu Case (supra), held in Ramesh Kumar vs. Kesho Ram[14] that:

> "6. The normal rule is that in any litigation the rights and obligations of the parties are adjudicated upon as they obtain at the commencement of the lis. But this is subject to an exception. Wherever subsequent events of fact or law which have a material bearing on the entitlement of the parties to relief or on aspects which bear on the moulding of the relief occur, the court is not precluded from taking a 'cautious cognizance' of the subsequent changes of fact and law to mould the relief." This was further followed in Lekh Raj vs. Muni Lal & Ors.[15]. This Court in Sheshambal (dead) through LRs vs. Chelur Corporation Chelur Building & Ors.[16] while discussing the issue of taking cognizance of subsequent events held that:
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> "19. To the same effect is the decision of this Court in Om Prakash Gupta case where the Court declared that although the ordinary rule of civil law is that the rights of the parties stand crystallised on the date of the institution of the suit yet the court has power to mould the relief in case the following three conditions are satisfied: (SCC p. 263, para 11) "11. ... (i) that the relief, as claimed originally has, by reason of subsequent events, become inappropriate or cannot be granted;
>
> (ii) that taking note of such subsequent event or changed circumstances would shorten litigation and enable complete justice being done to the parties; and
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> (iii) that such subsequent event is brought to the notice of the court promptly and in accordance with the rules of procedural law so that the opposite party is not taken by surprise." This Court in Rajesh D. Darbar and Ors. vs. Narasinghro Krishnaji Kulkarni and Ors.[17], a matter regarding the elections in a registered society, held that the courts can mould relief accordingly taking note of subsequent events. Furthermore, in Beg Raj Singh vs. State of Uttar Pradesh & Ors.[18] while deciding on the issue of renewal of a mining lease held that:
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> "....A petitioner, though entitled to relief in law, may yet be denied relief in equity because of subsequent or intervening events i.e. the events between the commencement of litigation and the date of decision. The relief to which the petitioner is held entitled may have been rendered redundant by lapse of time or may have been rendered incapable of being granted by change in law. There may be other circumstances which render it inequitable to grant the petitioner any relief over the respondents because of the balance tilting against the petitioner on weighing inequities pitted against equities on the date of judgment." Even this Court while

exercising its powers under Article 136 can take note of subsequent events (See: Bihar State Financial Corporation & Ors. vs. Chemicot India (P) Ltd. & Ors.[19], Parents Association of Students vs. M.A. Khan & Anr.[20], State of Uttar Pradesh & Ors. vs. Mahindra & Mahindra Ltd.[21])

35. Thus, when the relief otherwise awardable on the date of commencement of the suit would become inappropriate in view of the changed circumstances, the courts may mould the relief in accordance with the changed circumstances for shortening the litigation or to do complete justice.

36. The appellants during the pendency of the Civil Suits sought interim orders from the High Court and on the basis of order dated April 20, 1988 constructed the structure on the condition that rights of five flats were to be retained and they were subject to the outcome of the suit. In another order dated October 16, 1991 the appellants were once again restrained from the creation of third party rights with respect to the five demarcated flats. The appellants being well aware of the risks and consequences, carried on with the construction. During the pendency of the First Appeal, it has been pointed out that the appellants had given two of the five flats on leave and licence and continued to enjoy benefits from the same since 1997. The appellants are occupying two of the other nine flats and benefits from the remainder are being enjoyed by them.

37. In wake of the above, we are of the opinion that the High Court taking note of the subsequent events has correctly moulded the relief and allotted five flats to the respondent Nos. 1 to 5 as per their share.

38. Considering the above and the submissions of respondent no. 6 we find that the appellants cannot shift the onus on the BMC and the High Court has correctly held as under:

“53. As on today the remaining portion of Irani Wadi is acquired by the BMC and they want to develop it. The other portion is allotted to defendant No. 2 on lease. Considering, therefore, all the rights of the plaintiffs i.e. 6/15th right in the suit property and the right of the defendant No. 2, allotting five flats to the plaintiffs, rest of the 10 flats of the building are with the defendant No. 2 and/or his legal heirs, and the corporation developing the remaining property, is the only option left. Once the remaining portion of Irani Wadi is acquired by the corporation, the plaintiff will have to vacate the same today or tomorrow. Therefore in these circumstances the order that follows is the only order that will be just and proper in my humble opinion.”

39. The share of the respondent Nos.1 to 5 is claimed to be 6/15th and the same is challenged. However, there are no specific submissions to the contrary in this regard and as it is a question of fact, we find that the High Court has correctly determined the same as the appellants are getting more than their share being heirs of only one brother juxtaposed to respondent Nos. 1 to 5, who represent branches of two brothers.

40. For the reasons stated hereinabove, we find no merit in these appeals and the same are dismissed.

.....J.

(Gyan Sudha Misra) New Delhi;

.....J.

April 25, 2014. (Pinaki Chandra Ghose)

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[1] (2007) 8 SCC 600
[2] (2008) 17 SCC 491
[3] (2005) 11SCC 314
[4] (1985) 2 SCC 683
[5] (1986) 1 SCC 571
[6] (1994) 3 SCC 481
[7] (1998) 7 SCC 294
[8] (1997) 2 SCC 387
[9] (1989) 3 SCC 77
[10] (2004) 4 SCC 794
[11] 294 US 600
[12] AIR 1941 FC 5
[13] (1975) 1 SCC 770
[14] (1992) Supp 2 SCC 623
[15] (2001) 2 SCC 762
[16] (2010) 3 SCC 470
[17] (2003) 7 SCC 219
[18] (2003) 1 SCC 726
[19] (2006) 7 SCC 293
[20] (2009) 2 SCC 641
[21] (2011) 13 SCC 77
