



Sonam

IN THE HIGH COURT OF BOMBAY AT GOA

**WRIT PETITION NO. 1558 of 2024 (F)
WITH
CIVIL APPLICATION NO. 68 OF 2024**

1. Goa Kshatriya Maratha Samaj,
Through its President,
Shri. Padmanabh Hari Amonkar,
77 years of age,
Resident of Alto-Dabolim,
Vasco-da-Gama, Marmugao, Goa.

2. Shri. Padmanabh Hari Amonkar,
Son of Mr. Hari Amonkar,
77 years of age, Indian National,
R/o Alto-Dabolim,
Vasco-da-Gama,
Mormugao, Goa.

... PETITIONERS

Versus

1. Shri. Santosh E. Akhadkar,
Major of Age,
General Secretary,
Having office at Kshtratej Sankul,
Alto Porvorim, Bardez, Goa.

2. Shri. Rajendra T. Khorjuvenkar,
Major of Age, Treasurer,
Having office at Kshtratej Sankul,
Alto Porvorim, Bardez, Goa.

3. Smt. Shraddha S. Phadte,
Major of age, Vice President,
Having office at Kshtratej Sankul,
Alto Porvorim, Bardez, Goa.
4. Shri. Mohan C. Volvoikar,
Major of age, Joint-Secretary,
Having office at Kshtratej Sankul,
Alto Porvorim, Bardez, Goa.
5. Smt. Sukant V. Halarnkar,
Major of age, Executive Member,
Having office at Kshtratej Sankul,
Alto Porvorim, Bardez, Goa.
6. Shri. Ratish V. Tari,
Major of age, Executive Member,
Having office at Kshtratej Sankul,
Alto Porvorim, Bardez, Goa.
7. Shri. Vasudev S. Salgaonkar,
Major of age, Executive Member,
Having office at Kshtratej Sankul,
Alto Porvorim, Bardez, Goa.
8. Shri. Satish D. Volvokar,
Major of age, Executive Member,
Having office at Kshtratej Sankul,
Alto Porvorim, Bardez, Goa.
9. Ajit alias Kiru S. Porob,
Major of age,
Having its registered office at
Kshtratej Sankul, Alto Porvorim,
Bardez, Goa.

10. Shri. Aditya Mohan Chodankar,
Major of age,
R/o. P.D.A. Colony,
Alto-Porvorim, Goa.
11. Shri. Roshan Chandrakant Chodankar,
Major of age,
R/o. Housing Board Colony,
Feira-Alto, Mapusa, Bardez, Goa.
11. Shri. Roshan Chandrakant Chodankar,
Major of age,
R/o. Housing Board Colony,
Feira-Alto, Mapusa, Bardez, Goa.
12. Shri. Pandurang Shiva Sawant,
Major of age,
R/o. H. No. 773/28,
Socorro, Porvorim,
Bardez, Goa.
13. Shri. Sarvesh Sundar Phadte Bandodkar,
Major of age,
R/o. H. No. 818/3, Alto-Betim,
Penha-de-Franca, Bardez, Goa.
14. Shri. Manguesh Shabi Chodankar,
Major of age,
R/o. Ramwada, Oxel, Siolim,
Bardez, Goa.
15. Shri. Satish Vishnu Chodankar,
Major of age,
R/o. Ramwada, Colvale,
Bardez, Goa.

16. Shri. Jagdish Yadu Shet Durbhatkar,
Major of age,
R/o. Belabay, Vasco-da-Gama,
Mormugao, Goa.
17. Shri Dnyandeep Nandakishor Valvaokar,
Major of age,
R/o. H. No. 46,
Near Old Vithoba Temple,
Betim, Bardez, Goa.
18. Shri. Narayan Laxman Redkar,
Major of age,
R/o. H. No. 318, Khalchawada,
Harmal, Pernem, Goa.
19. Shri. Yuvraj Umakant Salgaonkar,
Major of age,
R/o. Near Vidhya mandir, Adarsh Colony,
Chicalim, Vasco-da-Gama, Goa.
20. Shri. Vijaykumar P. Keluskar,
Major of age,
R/o. P.D.A. Colony,
Corlim, Tiswadi, Goa.
21. Shri. Vijaykumar Anant Shet,
Major of age,
R/o. H. No. 273, Golwada,
Cumbharjua, Tiswadi, Goa.
22. Shri. Pramod V. Juvenkar,
Major of age,
R/o. H. No. 1404/A,
Bapsora, Betul,
Velim, Salcete, Goa.

23. Shri. Anand R. Tari,
Major of age,
R/o. H. No. 754, Durbhat,
Ponda, Goa.
 24. Smt. Kavita K. Fadte,
Major of age,
R/o. H. No. 722, Badem,
Assgao, Bardez, Goa.
 25. Shri. Kiran G. Achrekar,
Major of age,
R/o. H. No. 438-C, Salai,
Salvador-do-Mundo,
Betim, Bardez, Goa.
 26. Mrs. Supriya R. Volvoikar,
Major of age,
R/o. H. No. 96,
Volvoi, Ponda, Goa.
 27. Shri. Chandrakant Uttam Chodankar,
Major of age,
R/o. Housing Board Colony,
Feira-Alto, Mapusa, Bardez, Goa.
 28. Shri. Gajanan Ramnath Halarnkar,
Major of age,
R/o. Matavwada, Brittona,
Penha-de-Franca, Bardez, Goa.
 29. Shri. Damodar G. Fadte,
Major of age,
R/o. Caribhat, Carambolim,
Tiswadi, Goa.
- ... RESPONDENTS

**WITH
CIVIL APPLICATION NO. 68 OF 2024**

1. Goa Kshatriya Maratha Samaj
Through its President,
Shri. Ajit alias Kiru S. Porob,
Age 50 years, Service,
Having its Registered Office at
Kshatratej Sankul, Alto-Porvorim,
Bardez, Goa.
2. Shri. Santosh E. Akhadkar,
General Secretary,
Age 57 years, Businessman,
Having Office at Kshatratej Sankul,
Alto-Porvorim, Bardez Goa.
3. Shri. Rajendra T. Khorjuvenkar,
Treasurer,
Age 64 years, Retired,
Having Office at Kshatratej Sankul,
Alto-Porvorim, Bardez Goa.
4. Smt. Shraddha Shrikant Phadte,
Vice President,
Age 53 years, Housewife,
Having Office at Kshatratej Sankul,
Alto-Porvorim, Bardez Goa.
5. Shri. Mohan Chandrakant Volvoikar,
Joint-Secretary,
Age 62 years, Retired,
Having Office at Kshatratej Sankul,
Alto-Porvorim, Bardez Goa.

6. Smt. Sukant Vishwas Halarnkar,
Executive Member,
Age 51 years, Advocate,
Having Office at Kshatratej Sankul,
Alto-Porvorim, Bardez Goa.
7. Shri. Ratish Varo Tari,
Executive Member,
Age 50 years, Business,
Having Office at Kshatratej Sankul,
Alto-Porvorim, Bardez Goa.
8. Shri. Vasudev Shripad Salgaonkar,
Executive Member,
Age 52 years, Business,
Having Office at Kshatratej Sankul,
Alto-Porvorim, Bardez Goa.
9. Shri. Satish D. Volvoikar,
Executive Member,
Age 50 years, Service,
Having Office at Kshatratej Sankul,
Alto-Porvorim, Bardez Goa. ... APPLICANTS

Versus

1. Shri. Padmanabh Hari Amonkar,
Age 77 years, Businessman,
Alto-Dabolim, Vasco-Da-Gama,
Mormugao Goa.
2. Shri. Roshan Chandrakant Chodankar,
Age 45 years, Advocate by profession,
Housing Board Colony, Feira-Alto,
Mapusa, Bardez Goa.

3. Shri. Sarvesh Sundar Phadte Bandodkar,
Age 50 years, Businessman,
H. No. 818/3, Alto-Betim,
Penha-De-France, Bardez Goa.
4. Shri. Aditya Mohan Chodankar,
Age 28 years, Business,
P.D.A. Colony, Alto-Porvorim,
Bardez Goa.
5. Shri. Mangesh Shabi Chodankar,
Age 52 years, Businessman,
Ramwada, Oxel, Siolim,
Bardez Goa.
6. Shri. Dnyandeep Nandakishor Valvaikar,
Age 52 years, Businessman,
H. No. 46, Near Old Vithoba Temple,
Betim, Bardez Goa.
7. Shri. Narayan Laxman Redkar,
Age 55 years, Businessman,
H. No. 318, Khalchawada,
Harmal, Pernem Goa.
8. Shri. Vijaykumar P. Keluskar,
Age 51 years, Businessman,
P.D.A. Colony, Corlim,
Tiswadi Goa.
9. Shri. Vijaykumar Anant Shet,
Age 65 years, Businessman,
H. No. 273, Golwada,
Cumbharjua, Tiswadi Goa.
10. Shri. Pramod V. Juvenkar,

Age 46 years, Businessman,
H. No. 1404/A, Bapsora, Betul,
Velim, Salcete Goa.

11. Mrs. Kiran G. Achrekar,
Age 48 years, Housewife,
H. No. 438-C, Salai,
Salvador-Do-Mundo,
Betim, Bardez Goa.
12. Mrs. Supriya R. Volvoikar,
Age 45 years, Service,
H. No. 96, Volvoi, Ponda Goa.
13. Shri. Pandurang Shiva Sawant,
Age 60 years, Retired,
H. No. 773/28, Socorro,
Porvorim, Bardez Goa.
14. Shri. Satish Vishnu Chodankar,
Age 53 years, Businessman,
Ramwada, Colvale, Bardez Goa.
15. Shri. Jagdish Yadu Shet Durbhatkar,
Age 58 years, Businessman,
Belabay, Vasco-Da-Gama,
Mormugao Goa.
Age 58 years, Businessman,
Belabay, Vasco-Da-Gama,
Mormugao Goa.
16. Shri. Yuvraj Umakant Salgaonkar,
Age 48 years, Businessman,
Near Vidhya Mandir, Adarsh Colony,
Chicalim, Vasco-Da-Gama, Goa.
Chicalim, Vasco-Da-Gama, Goa.

17. Shri. Anand R. Tari,
Age 58 years, Businessman,
H. No. 754, Durbhat,
Ponda Goa.
 18. Smt. Kavita K. Fadte,
Age 47 years, Businessman,
H. No. 722, Badem,
Assagao, Bardez Goa.
 19. Shri. Chandrakant Uttam Chodankar,
Age 67 years, Advocate by profession,
Housing Board Colony, Feira-Alto,
Mapusa, Bardez Goa.
 20. Shri. Damodar G. Fadte,
Age 63 years, Retired,
Caribhat, Carambolim,
Tiswadi Goa.
- ... RESPONDENTS

Mr. Ashwin Bhobe with Mr. Sagar Sarmalker, Advocate
for the Petitioners.

Mr. Suhas Walawaikar with Ms. Sukant V. Halankar,
Advocates for Respondent Nos. 1 to 9,

Mr. Chaitanya Padgaonkar with Ms. Vaishali Mahato,
Advocate for Respondent Nos. 11, 13, 14, 20, 21, 25 and
26.

CORAM: BHARAT P. DESHPANDE, J.

RESERVED ON : 19th AUGUST 2024.

PRONOUNCED ON: 3rd September, 2024.

JUDGEMENT

1. Rule.
2. Rule is made returnable forthwith.
3. Matter is taken up for final disposal at the admission stage with the consent of the parties.
4. Heard Mr. Ashwin Bhobe with Mr. Sagar Sarmalker, learned Advocates for the Petitioners, Mr. Suhas Walawaikar with Ms. Sukant V. Halankar, learned Advocates for Respondent Nos. 1 to 9, Mr. Chaitanya Padgaonkar with Ms. Vaishali Mahato, learned Advocates for Respondent Nos. 11, 13, 14, 20, 21, 25 and 26 and Ms. V. Pilankar, learned Advocate for Respondent No. 10.
5. The petition is filed challenging the order passed by the learned Trial Court below Exhibit 19 dated 25.06.2024. By the said order, an application filed by the Petitioners to transpose Plaintiff No. 1 Goa Kshatriya Maratha Samaj as

Defendant No. 22 to be represented by its President Mr. Padmanabh Amonkar came to be rejected.

6. Mr. Bhobe, learned Advocate appearing for Petitioners would submit that Respondent Nos. 1 to 9 filed the suit against the Petitioner and others wherein, Plaintiff No. 1 is shown as Goa Kshatriya Samaj through its President Mr. Ajit alias Kiru S. Porob. The said suit is filed for declaration, permanent injunction and other consequential reliefs. The main prayer in the said suit is to declare the election notice dated 29.07.2023 issued by Defendant No. 20 as illegal and accordingly, conducting of election of the Samaj thereby electing Defendant Nos. 1 to 18 as Executive Body members, as null and void. An injunction is claimed restraining Defendant Nos. 1 to 18 particularly, administering the affairs of the said Samaj including financial affairs.

7. Mr. Bhobe would submit that infact the said Samaj is now represented by Defendant No. 3 Mr. Padmanabh Amonkar who is elected as President along with his committee members. Mr. Bhobe submits that Mr. Ajit alias Kiru S. Porob who claims to be President of the said Samaj was not elected properly and therefore, he cannot represent the said Samaj.

8. Mr. Bhobe would submit that there is dispute between two committees of the said Samaj and thus, the Samaj which is a society registered under the Societies Registration Act, 1860 cannot be shown as represented by Mr. Ajit alias Kiru S. Porob but, it should be transposed as Defendant as represented by Mr. Padmanabh Amonkar.

9. Mr. Bhobe would submit that the General Body Resolution was passed thereby declaring that the election of Mr. Ajit alias Kiru S. Porob and other Plaintiffs as null and void and thus powers of the General Body is supreme

and accordingly, said Mr. Ajit alias Kiru S. Porob is cannot be allowed to represent the Samaj.

10. Mr. Bhobe would submit that an application was filed for transposing Samaj as Defendant to be represented by Mr. Padmanabh Amonkar, the elected President in the General Body, however, the same has been rejected by the Trial Court which has been impugned in the present petition. He would submit that the Samaj cannot be impleaded as Plaintiff, specially when two different groups being the members of the said Samaj are fighting with each other with regard to the election conducted separately. He would submit that the Samaj should be kept separate, as the Samaj has infact in the suit filed by one of the group claimed to be Executive Committee member, which has been nullified by the General Body Meeting. He would submit that in order to decide the said fact, the said Samaj cannot be impleaded as the Plaintiff.

11. Mr. Padgaonkar, learned Advocate appearing for some of the Respondents while supporting the contentions raised by Mr. Bhobe, learned Advocate appearing for Petitioners, would submit that the Society is a juristic person, however, such society is required to be represented by an Authorized Member. He submits that Mr. Ajit alias Kiru S. Porob claiming to be President failed to produce any resolution or an authorisation given to him by the General Body to represent the Society. He would submit that the General Body was called by issuing the notice in the newspaper wherein it was resolved to elect 18 members as Executive Committee, who are infact the Defendants. Though, said Mr. Ajit alias Kiru S. Porob claims to be elected as President in the Executive Body meeting, cannot represent the Samaj. He would further submit that the main dispute is with regard to the election of the Committee and others and hence, Samaj should be one of the Defendants.

12. Mr. Walwaikar, learned Advocate appearing for Respondent Nos. 1 to 9/Plaintiffs would submit that the suit has been filed properly through the elected President and its Executive Members. He would submit that the election program was published in accordance with the bye-laws and further Respondent Nos. 1 to 9 were elected for posts in the General Body meeting. He would submit that there are specific pleadings in the plaint to show that the election of the Plaintiffs was conducted as per the Rules and Regulations and bye-laws.

13. Mr. Walwaikar would submit that there is no challenge thrown on the election held wherein, the Plaintiff has been declared as Executive Committee member. He would submit that the so called General Body meeting called by the Defendants is infact illegal and had no authority to decide the election or even to declare the election program as null and void. He submits that Defendant No. 20 who actually published such notice, filed

written statement claiming that he has resigned from the post of President and also of Executive Member much prior to publishing of such notice.

14. Mr. Walwaikar would further submit that there is no pleading for transposing of the Plaintiff as the Defendant in the suit filed before the Trial Court and that the same is claimed in the present proceedings. He submits that the election which was held earlier, was challenged by way of filing of a suit, but the same was withdrawn. Even attempts were made to challenge such elections before this Court. However, Petitioners were not successful.

15. Mr. Walwaikar would submit that the application filed before the Trial Court is defective, misleading and rightly rejected. He submits that Mr. Padmanabh Amonkar is claiming to be Plaintiff No. 1 and declared himself as a President of the Samaj and accordingly, asking for transposition is not permissible at all.

16. Mr. Walwaikar would submit that the Plaintiffs are infact legally elected Executive Committee members and are in possession of the records as well as of funds of the Samaj. The Defendants who were earlier managing affairs of the Society are now trying to mislead the Court by calling it General Body, which is not at all legal and binding the Plaintiffs.

17. Mr. Walwaikar would submit that the bye-laws of the Society would clearly show that only 8 members could be elected as Executive Committee members and the earlier amendment is clearly held to be illegal. The General Body Meeting in which, the decision was taken to scrap amendment to the bye-laws including the Defendants who signed such proceedings. Thus, the contentions of the Defendants/ Petitioners that they are Executive Committee members consisting of 18 officials is itself contrary to the bye-laws.

18. Mr. Walwaikar would submit that the notice to call the election was issued by the General Secretary and published in the newspaper as per clause(6) of the bye-laws which cannot be set aside by the so called General body calling it illegal and by the person who is not authorised to do so.

19. Finally, Mr. Walwaikar would submit that powers of this Court are restricted under Article 227 of the Constitution and that the dispute between two private individuals that need interference by Government authority cannot be interfered under the Article 227 of the Constitution. In this respect, Mr. Walwaikar place reliance on the following decisions:

(1) *Badami(D) Tr. Her Lr Vs Bhali.*

(2) *Shalini Shyam Shetty and Anr Vs Rajendra Shankar Patil (2010) 8 Supreme Court Cases 329.*

**(3) Manoj Kumar Dalmia Vs Om Prakash
Dalmia and 2 ors.**

20. Mr. Bhobe, appearing for the Petitioners placed reliance on the case of ***Bengal Secretariat Cooperative Land Mortgage Bank and Housing Society Ltd V/s Alope Kumar and Anr. 2022 SCC OnLine SC 1404*** to contend that the decision taken by General Body which is the Supreme authority is binding on all the members.

21. Rival contentions fall for consideration.

22. Respondent Nos. 1 to 9 filed a suit before the trial court claiming declaration and injunction which includes a declaration that the election of Petitioners /Defendant Nos.1 to 18 is null and void. The suit itself shows that it is filed for and on behalf of Goa Kshatriya Maratha Samaj which is a Society represented by its President Mr. Ajit @ kiru S. Parab and other executive members.

23. The main objection raised on behalf of Mr. Bhobe and Mr. Padgaonkar is that Mr. Ajit @ kiru S. Parab cannot

represent the Samaj as the president, as he is not the President of the said Samaj where as, Mr. Padmanabh Amonkar/ Defendant No.3 is the President of the Samaj. The application is filed before the Trial Court for transposition of the said Samaj as Defendant No. 22. It is interesting to note the cause title of the said application which is found at page 364 of the Paper Book. This application shows that it is filed by Plaintiff No.1 that is the Goa Kshatriya Maratha Samaj represented through its duly elected president, authorised to file present application in terms of the Resolution adopted by the General Body of the Samaj in its meeting dated 15.10.2023. It is further claimed in the application that the said Samaj /Plaintiff No.1 is not represented by Mr. Ajit @ kiru S. Porob who claims to be President in the cause title of the suit and infact there is no Resolution passed by the General Body authorising Mr. Ajit @ kiru S. Porob to file the said suit for and on behalf of the Samaj. The application further discloses that no Resolution is produced by Mr. Ajit @ Kiru S. Porob along with the plaint to show that he has been authorised by the General Body to represent in the suit filed before the Trial Court. Similarly, application discloses in

paragraph No.4 that the entire process of election as convened in terms of Public Notice dated 20.05.2023 and 14.07.2023 was taken up for discussion by the General Body in its meeting dated 23.07.2023 and upon deliberations, it was resolved that the entire election process carried out on the basis of the public notice dated 03.05.2023 and 25.05.2020 is illegal and null and void.

24. Thus, the application is styled as filed by Plaintiff No.1/Samaj to be transposed as Defendant No. 22 to be represented by its President Mr. Padmanabh Amonkar.

25. Mr. Walwaikar is justified in objecting to such an application filed by Plaintiff No.1 which shows that the Samaj is represented by its President Mr. Ajit @kiru S. Porob. Infact the application styled as filed by Plaintiff No.1 is itself incorrect. Mr. Padmanabh Amonkar is infact Defendant No.3 in the suit. He claims to be the President of the Samaj and has filed an application as Defendant No.3 claiming that he is the President of the Samaj. Thus, it is clear from the application itself that same is clearly defective and misconceived.

26. Besides the contention of the present Petitioners is that Mr. Ajit @ Kiru S. Porob is not the President of the Samaj and therefore, he cannot represent the Samaj and further that Mr. Padmanabh Amonkar is elected President of the Samaj and has right to represent the Samaj will have to be taken into consideration during trial of proceedings. There are documents placed on record challenging election process. At the most, the Petitioners who are Defendants in the suit could have filed the counter-claim as elected members of the Samaj, however, filed an application for transposing the Samaj itself as Defendant is clearly misconceived.

27. First of all, it is necessary for this Court and that too in Writ Petition to go into the aspect as to whether Mr. Ajit @kiru S. Porob is properly elected President or whether Mr. Padmanabh Amonkar is elected President of the Samaj. The suit is filed before the Trial Court by the Respondent Nos. 1 to 9 claiming to be elected members of the Executive Committee and challenging the so called election of the Petitioners. Thus, the question is as to who can represent the Samaj or as to who

is an elected Executive Member of the Samaj, will have to be decided during trial.

28. Learned Trial Court has rightly observed that such an aspect cannot be decided in the application for transposition of the parties. When two fractions / groups are claiming right over the elected Executive Committee, the society cannot be transposed as Defendant. Though, the society is a juristic person, it has to be represented by an Authorised Officer. The matter in hand is clearly showing the dispute, as to who can represent the Samaj. The application filed on behalf of the Petitioners, is clearly claiming themselves as elected President of the Samaj and styling as Plaintiff No.1 itself. If such an application is accepted, it would amount to admitting the Petitioners as elected Committee Members having authority to represent the Samaj which itself is in dispute in the suit.

29. There is no doubt that General Body is a supreme body and has the powers to decide the matter involving the society as held by the Apex Court in the case of ***Bengal Secretariat Cooperative Land Mortgage Bank and Housing***

Society Ltd (*Supra*). However, it is the contention on behalf of the Respondent Nos. 1 to 9 that the General Body called on a particular date was infact illegal since the person who issued notice, was itself having no authority to do so.

30. Mr. Walwaikar has pointed out that Defendant No. 22 filed his written statement claiming that he resigned as President of the Society as well as of the Executive Committee much prior to the issuance of the notice of the same by the General Body. Thus, there is clear cloud of dispute over the notice by Defendant No. 20 who called the General Body by which, the Petitioners are claiming to be elected members or passing the Resolution that the election of the Respondent Nos. 1 to 9 is null and void. All these issues are required to be taken into consideration during trial.

31. In ***Shalini Shyam Shetty and Anr*** (*Supra*) the Apex Court discussed the powers of the High Court under Article 227 of the Constitution of India which are found in paragraph No. 49 which reads thus:

“49. *On an analysis of the aforesaid decisions of this Court, the following principles on the exercise of High Court's jurisdiction under Article 227 of the Constitution may be formulated:*

(a) A petition under Article 226 of the Constitution is different from a petition under Article 227. The mode of exercise of power by the High Court under these two articles is also different.

(b) In any event, a petition under Article 227 cannot be called a writ petition. The history of the conferment of writ jurisdiction on High Courts is substantially different from the history of conferment of the power of superintendence on the High Courts under Article 227 and have been discussed above.

(c) High Courts cannot, at the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of the court or tribunal subordinate to it. In cases where an alternative statutory mode of redressal has been provided, that would also operate as a restraint on the exercise of this power by the High Court.

a) The parameters of interference by High Courts in exercise of their power of superintendence have been repeatedly laid down by this Court.-

In this regard the High Court must be guided by the principles laid down by the Constitution Bench of this Court in Waryam Singh and the principles in Waryam Singh have been repeatedly followed by subsequent Constitution Benches and various other decisions of this Court.

(e) According to the ratio in Waryam Singh, followed in subsequent cases, the High Court in exercise of its jurisdiction of superintendence can interfere in order only to keep the tribunals and courts subordinate to it, "Within the bounds of their authority".

(f) In order to ensure that law is followed by such tribunals and courts by exercising jurisdiction which is vested in them and by not declining to exercise the jurisdiction which is vested in them.

(g) Apart from the situations pointed in (e) and (f). High Court can interfere in exercise of its power of superintendence when there has been a patent perversity in the orders of the tribunals and courts subordinate to it or where there has been a gross and

manifest failure of justice or the basic principles of natural justice have been flouted.

(h) In exercise of its power of superintendence High Court cannot interfere to correct mere errors of law or fact or just because another view than the one taken by the tribunals or courts subordinate to it, is a possible view. In other words the jurisdiction has to be very sparingly exercised.

(i) The High Court's power of superintendence under Article 227 cannot be curtailed by any statute. It has been declared a part of the basic structure of the Constitution by the Constitution Bench of this Court in L Chandra Kumar v. Union of India and therefore abridgment by a constitutional amendment is also very doubtful.

(j) It may be true that a statutory amendment of a rather cognate provision, like Section 115 of the Civil Procedure Code by the Civil Procedure Code (Amendment) Act, 1999 does not and cannot cut down the ambit of High Court's power under Article 227. At the same time, it must be remembered that such statutory amendment does not correspondingly expand the High Court's jurisdiction of superintendence under Article 227.

(k) The power is discretionary and has to be exercised on equitable principle in an appropriate case, the power can be exercised suo motu.

(l) On a proper appreciation of the wide and unfettered power of the High Court under Article 227, it transpires that the main object of this article is to keep strict administrative and judicial control by the High Court on the administration of justice within its territory.

(m) The object of superintendence, both administrative and judicial, is to maintain efficiency, smooth and orderly functioning of the entire machinery of justice in such a way as it does not bring it into any disrepute. The power of interference under this article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning

of the tribunals and courts subordinate to the High Court.

(n) This reserve and exceptional power of judicial intervention is not to be exercised just for grant of relief in individual cases but should be directed for promotion of public confidence in the administration of justice in the larger public interest whereas Article 226 is meant for protection of individual grievance. Therefore, the power under Article 227 may be unfettered but its exercise is subject to high degree of judicial discipline pointed out above.

(o) An improper and a frequent exercise of this power will be counterproductive and will divest this extraordinary power of its strength and vitality.”

32. The contention of Mr. Walwaikar that the dispute involving two private parties cannot be interfered by the High Court under Article 227 of the Constitution of India, is completely misplaced. The Apex Court has clearly discussed the scope and powers of this Court under Article 227 of the Constitution of India which are supervisory powers to be exercised when it is found that the authorities coming within the jurisdiction of the High Court including the Court or Tribunal and the Courts Subordinate to it, are not performing their duties within the bounds of the framework. If the High Court comes to know that the Court or Tribunal and other Courts subordinate to it are not performing its duties within the legal framework, the High Court is entitled to set it right

by exercising powers under Article 227 of the Constitution of India. While doing so, this Court is setting right the irregularities and question of the proper exercise of jurisdiction by the Court or the authorities coming within its jurisdiction. While doing so, it is not necessary to look into whether the dispute is between two private individuals but, whether the order passed by the authorities is legal or not.

33. The present matter is accordingly covered under Article 227 of the Constitution of India, however, for the reasons recorded above, the impugned order passed by the Trial Court cannot be faulted with. The observations of the learned Trial Court that the question will have to be taken into consideration as to who can represent the Samaj and the same cannot be decided by allowing the application for transposing cannot be faulted with. Accordingly, there is no substance in the present Petition and the same stands rejected.

34. Rule stands discharged.

35. Writ petition stands disposed of accordingly. Pending applications if any stand disposed of.

BHARAT P. DESHPANDE, J.