

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO.        of 2025**  
**(@SLP (C) No.10687/2025)**

**VIKAS KAMALAKAR WALAWALKAR**

**...APPELLANT**

## VERSUS

**THE DEPUTY SALT COMMISSIONER & ORS. ...RESPONDENTS**

## ORDER

1. Heard. Leave granted.
2. The unsuccessful plaintiff lays challenge to the interim order dated 07.04.2025 passed by the Division Bench of the High Court of Judicature at Bombay in Appeal No.117 of 2014, whereunder the High Court by directing the appeal to be listed for hearing, has declined to stay the operation of the judgment and decree of dismissal of the suit passed by the trial court in toto or in other words, has declined to stay the impugned judgment to the extent of 150 acres as against the total area of 782.46 acres.

3. The facts shorn of unnecessary details can be crystallized as under:

3.1 The Secretary of State for India in Council, namely, the predecessors of respondent no.2 herein, executed three separate but identical lease deeds in favour of the predecessor entitled of the appellant on 22.12.1921, to be effective from 15.10.1917 for a period of 99 years, whereunder the land described thereunder (hereinafter referred to as the “suit schedule property” or “salt lands”, as the case may be) namely in favour of Shri Bankatlal Gopikishan. Subsequently on an application made by the successors of Shri Bankatlal Gopikishan lease was transferred in favour of the appellant by way of supplementary lease deed dated 07.07.1994.

4. On account of alleged improper utilization of substantial area of the lease land and invoking Clause 5 of the Lease Deed/Supplementary Deed, a show cause notice was issued by the Union of India to the appellant as to why the lease of the subject lands should not be terminated and after considering the reply of the appellant, the Salt Commissioner in order to satisfy himself as to the veracity of the statement or reply given to the show cause notice constituted a committee to examine as to whether the grass grown in the salt fields is a naturally grown or deliberately grown by the appellant as had been contended in reply. This was followed by a second showcase notice stating *inter alia* that the grass grown was not spontaneous

but was man made or deliberately grown and as such a termination letter was issued on 12.03.2004 which came to be replied by the appellant on 15.03.2004 which ended in the termination on 24.03.2004.

5. Appeal filed against the said termination before the Salt Commissioner was disposed of with a direction to the respondent no.1 to grant the appellant an opportunity of being heard or the impugned order not being in consonance with the principle of audi alteram partem- violation of principles of natural justice. Subsequently, a personal hearing was extended to the appellant and the adjudicating authority in the interregnum having received the report of the Committee which had opined that the grass grown in the subject land was man made, passed an order of terminating the lease of the suit land on the ground that the appellant had violated condition No.(a) of Clause 4 of the Supplementary Lease Deed and for growing grass in the salt lands and not achieving the minimum production of common salt fixed by the State Government.

6. Aggrieved by the same, the appellant instituted a suit No.1172 of 2005 challenging the said termination. During the pendency of the suit, an interim order of injunction, as prayed for in the suit, was granted and was continued from time to time and was in operation till the disposal of the suit. The learned trial Judge, after full-fledged trial, dismissed the suit by

judgment and decree dated 08.05.2024 by arriving at a conclusion that the termination was issued on twin grounds, namely, growing of grass in the suit land and for not achieving the minimum production of common salt as fixed by the State Government.

7. Being aggrieved by the same an Intra-Court appeal No.117/2024 came to be filed, whereunder an interim prayer for the stay of the operation of the judgment and decree was sought for, which was granted on 05.08.2024 and continued till it was partially vacated by the impugned order dated 07.04.2025. The High Court held that insofar as 150 acres of the total salt land, namely, the western side/ portion of salt land is concerned, no salt was being manufactured and as such no interim relief was granted or in other words, stay of the operation of the judgment and decree, in respect of 150 acres of land, came to be denied, and at the same time, the plaintiff was directed to pay the requisite assignment fee and ground rent insofar as remaining 632 acres of land situated on eastern side is concerned and held as long as the assignment fee is paid, the plaintiff shall not be dispossessed. In other words, the stay of the judgment and decree insofar as 150 acres of land was concerned, was vacated. Hence, this appeal.

8. We have heard learned senior counsel appearing for the parties.

Mr. Gopal Sankaranarayanan, learned senior counsel appearing for the appellant/plaintiff has contended that once the appeal is admitted and the Appellate Court was satisfied about *prima facie* case had granted an order of stay of the operation of the judgment and decree passed by the learned Single Judge, it ought not to have vacated to the extent of 150 acres since the clock cannot be put back in the event of appellant succeeding in the appeal. He would also elaborate his submissions by contending that in the event of appellant succeeding in the appeal, then, if possession of the suit property to the extent of 150 acres is taken away from the plaintiff, it would only remain as a paper decree, or in other words, the appellant would not be able to enjoy the fruits of the decree. He would also contend that the non-utilization of the suit land at least to the extent of 150 acres, no fault can be laid at the doors of the plaintiff, inasmuch as, the said land having being rendered not useful for manufacturing of the salt on account of sewage water having seeped into the said land and it was not usable and despite all efforts put forth by the plaintiff to utilize the said land, it did not yield any positive results and as such it cannot be said at this length of time that the non-utilization of the land is attributable to the plaintiff.

9. He has also contended that the perusal of the documents which were tendered before the learned Single Judge as well as before the appellate court, are sufficient enough to establish the fact that plaintiff was

in settled possession and the buildings located therein is a mirror to this fact. He also contends that till the impugned order came to be passed, the appeal was listed for almost 19 hearings and on all these dates the interim order, which was granted initially, staying the operation of the judgment and decree, had continued and it could not have been vacated by a cryptic order impugned herein. He would also contend that the interim order which was passed by the High Court and since being continued by this Court, may be continued till the disposal of the suit, since the prayer sought for in the plaint, is not only for an order of permanent injunction but also for a mandatory injunction to the respondents to renew the lease and this issue still being at large before the appellate court and before it could be considered the interim order could not have been vacated and thereby rendering the appeal infructuous. Hence, he prays for setting aside the impugned order and the appeal being allowed.

**10.** Mr. Gopal Sankaranarayanan has relied upon the following judgments:

**(i)** Mool chand Yadav v. Raza Buland Sugar Co. Ltd., (1982) 3 SCC 484:

**(ii)** Pabbathi Venkataramaiah Chetty v. Pabbathi N. Rathnamaiah Chetty, (2007) 3 SCC 151;

**(iii)** Hyderabad Metropolitan Water Supply & Sewerage Board v. P. Satyanarayana Rao, (2009) 12 SCC 263;

(iv) Deoraj v. State of Maharashtra, (2004) 4 SCC 697;

(v) Atma Ram Properties (P) Ltd. v. Federal Motors (P) Ltd., (2005) 1 SCC 705.

11. Per contra, the learned senior counsels appearing for the respondents and the impleading applicant would defend the impugned order. They would also contend that even according to the plaintiff an extent of 150 acres had been not utilized at least from the year 1995 till date and as such no equity lies in favour of the plaintiff. Having taking into consideration that the total extent of land being 782.64 acres and out of which 150 acres was not being utilized for the purpose it was leased, the High Court has rightly not protected plaintiffs possession of said land from being taken over by the respondents-defendants and the learned Division Bench in order to balance the equities has rightly vacated the order of stay only to the extent of 150 acres by exercising its appellate powers, which order does not suffer from any infirmity and as such they have prayed for dismissal of the appeal.

12. Having heard the learned counsel appearing for the parties and on perusal of the case papers, we are of the considered view that the following point would arrive for our consideration:

Whether the interim order passed by the High Court dated 07.04.2025 would warrant our interference?

**13.** Though the learned senior advocates have made a valiant attempt to buttress their arguments by drawing the attention of this Court to the plaint averments, to the affidavits filed before the courts below and have made a further attempt to address the arguments on the merits of the case, we desist ourselves from falling prey to such attempts in the interest of both the parties. We say so for reasons more than one; **firstly**, the appeal being in continuation of the original proceedings and the issues now raised are also at large before the appellate court. **Secondly**, the appellate court being the last fact finding authority, would be in a better position to examine, evaluate, consider, adjudicate and answer the issues which are being urged herein before the appellate court itself; **thirdly**, if any observation is made by this court even minutely on merits of the case it would definitely prejudice the rights of the parties. Hence, we desist from dwelling upon these aspects though canvassed.

**14.** Coming to the core issue, namely, as to whether the High Court was justified in vacating the interim order of stay of the operation of impugned judgment and decree partially namely to the extent of 150 acres is concerned, we have to answer the same necessarily in the affirmative for the reasons to follow. It requires to be noted at this juncture itself that the powers of the appellate court for exercising its powers under Order 41 Rule



(5) is quite wide enough. The power to grant stay is discretionary and flows from the jurisdiction conferred on it which is equitable in nature. To secure an order of stay merely by preferring the appeal, is not a statutory right conferred on an appellant and so also the appellate court is not required to grant order of stay merely because an appeal has been preferred and an application for an order of stay has been filed. Therefore, the applicant for being eligible to an order of stay must do equity for seeking equitable order. In other words, doctrine of *in pari delicto* would be squarely applicable. The court would lend its hands of justice who does justice.

**15.** Keeping the aforesaid salutary principles in mind and also the fact that while granting an order of stay under Order 41 Rule 5 Code of Civil Procedure, 1908, the appellate court does have jurisdiction to put the parties seeking stay order on such terms as would reasonably compensate the party successful at the end of the appeal. Keeping this in mind when the facts on hand are looked into, it would leave no manner of doubt in our mind that the impugned order is passed on equitable consideration, namely, out of the total extent of 782.46 acres an extent of 150 acres which was not utilized for the purpose for which it was leased for almost 30 years or in other words lessee/ plaintiff had retained the same without use for the purpose for which it was leased (our *prima facie* opinion only) and also the fact as evidenced by the Expert Committee Report, which is available on

record disclosing that in the reply to the show cause notice the stand taken by the plaintiffs that in the leased salt lands the grass grown was natural growth has been belied and it has been opined by the expert committee that it is man made grass land and not grown naturally swayed in the mind of the High Court to vacate the order of stay to the extent of 150 acres for non-utilisation and thereby prima facie violation of lease term. This Court not being an expert of experts and not sitting in the armchair of the experts cannot do better than accepting the said opinion of the experts. Hence, for this reason also it has to be held that the Division Bench has rightly taken note of the fact that the extent of 150 acres of land is non-utilized by the plaintiff, at least from the year 1995, i.e. 20 years preceding the suit and hence arrived at a conclusion that continuation of stay would work inequitable to the successful defendants and as such has vacated the order of stay initially granted which does not call for our interference.

**16.** For the reasons aforestated, we proceed to dismiss this appeal with no order as to costs. All pending applications stands consigned to records.

.....J.  
**[ARAVIND KUMAR]**

.....J.  
**[N.V. ANJARIA]**

**New Delhi;**  
**20<sup>th</sup> August, 2025**

ITEM NO.27

COURT NO.15

SECTION IX

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 10687/2025

[Arising out of impugned final judgment and order dated 07-04-2025 in IA No. 2195/2024 passed by the High Court of Judicature at Bombay]

VIKAS KAMALAKAR WALAWALKAR

Petitioner(s)

VERSUS

THE DEPUTY SALT COMMISSIONER & ORS.

Respondent(s)

IA No. 166892/2025 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 96168/2025 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 168448/2025 - EXEMPTION FROM FILING O.T.

IA No. 166894/2025 - EXEMPTION FROM FILING O.T.

IA No. 166702/2025 - INTERVENTION/IMPLEADMENT

IA No. 98235/2025 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

IA No. 98157/2025 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

IA No. 96173/2025 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

Date : 20-08-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARAVIND KUMAR

HON'BLE MR. JUSTICE N.V. ANJARIA

For Petitioner(s) :

Mr. Gopal Sankaranarayanan, Sr. Adv.

Mr. S. C. Mahimtura, Adv.

Mr. Kush Chaturvedi, AOR

Mrs. Prerna Priyadarshini, Adv.

Mr. Neel Kamal Mishra, Adv.

Mr. Syed Faraz Alam, Adv.

Mr. Ishaan Mahimtura, Adv.

Mr. Ishaan Zaveri, Adv.

Mr. Atharva Gaur, Adv.

Mr. Aayushman Aggarwal, Adv.

Mr. Tushar Shrivastava, Adv.  
Mr. Shourya Das Gupta, Adv.  
Ms. Ayesha Choudhary, Adv.

For Respondent(s) :

Mr. Tushar Mehra, ASG  
Mr. Raghavendra P Shankar, ASG  
Mr. Kartikeya Asthana, Adv.  
Mr. Madhav Sinhal, Adv.  
Mr. Amit Sharma II, Adv.  
Ms. Pallavi Mishra, Adv.

Mr. Shashadari Naidu, Sr. Adv.

Mr. Raj Bahadur Yadav, AOR

Mr. Gurmeet Singh Makker, AOR

Mr. H. K. Chaturvedi, AOR  
Mrs. Anjali Chaturvedi, Adv.  
Mr. Sagar Chaturvedi, Adv.  
Ms. Megha Chaturvedi, Adv.  
Ms. Shreeaa Singh, Adv.

For Impleader(s) : Mr. Ranjit Kuamr, Sr. Adv.  
Mr. Mahesh Aggarwal, Adv.  
Mr. Arshit Anand, Adv.  
Ms. Vidisha Swaroop, Adv.  
Ms. Siddhi Gupta, Adv.  
Mr. E.C. Agrawala, AOR

UPON hearing the counsel the Court made the following  
O R D E R

1. Leave granted.
2. Appeal is dismissed in terms of the Signed Order placed on the file.
3. Pending application(s), if any, shall stand disposed of.

(RASHI GUPTA)  
COURT MASTER (SH)

(AVGV RAMU)  
COURT MASTER (NSH)