

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO. 989 OF 2026

IN

SUIT NO. 17 OF 2026

Arti Varun Kejriwal & Ors. .. Applicants/Plaintiffs
V/s.
Vandana Vinay Awatramani & Ors. .. Defendants

Mr. Ashok Dhanuka a/w Mr. Prashant Pande a/w Mr. Nikhil Sonar i/b. W3 Legal LLP for Applicants/Plaintiffs.

Mr. Sharan Jagtiani, Senior Advocate a/w. Mr. Shyam Kapadia, Mr. Dhiraj Mhetre, Ms. Smiti Tewari, Mr. Satyasrikant Vutha, Ms. Simran R. Grover, Mr. Aditya Nair & Mr. Siddharth Joshi i/b. Khaitan Legal Associates for Defendant nos. 1 to 3.

Mr. Haresh Jagtiani, Senior Advocate a/w. Ms. Janhavi Vora for Defendant no. 4.

Mr. Aniket Malu (through V.C.) for Defendant no. 6.

Mr. Karl Tamboly a/w. Mr. Biswadeep Chakravarty for Defendant no. 7.

Mr. Rumi Mirza a/w Ms. Devika Kamble i/b. Dipesh Mehta & Associates for Defendant nos. 8 and 9.

CORAM : FARHAN P. DUBASH, J.

RESERVED ON : 1st APRIL 2026

PRONOUNCED ON : 1st JULY 2026

ORDER:

1. By the present Suit, the Plaintiffs seek various reliefs including, inter alia, a declaration that certain properties constitute the assets of the Hindu Undivided Family (HUF) of their common ancestor, late Jotumal Awatramani, described as "**Jotumal and Sons HUF**" (hereinafter referred to as the "**Jotumal HUF**"). The Plaintiffs further seek a declaration that certain other properties are the self-acquired properties of their deceased mother, late

Veena Awatramani (**late Veena**). Both sets of properties are described in Exhibit "B" to the plaint and are hereinafter collectively referred to as the "**suit properties**". The properties alleged to form part of the Jotumal HUF are described as the "**Schedule 1 Assets**" and are set out in Part I of Exhibit "B" to the Plaint, whereas the properties alleged to be the self-acquired properties of late Veena are described as the "**Schedule 2 Assets**" and are set out in Part II of Exhibit "B" to the plaint.

2. In addition to the aforesaid declaratory reliefs, the Plaintiffs claim a share in the suit properties in accordance with the law of succession applicable to Hindus and seek a decree for partition and separate possession of the Schedule 1 Assets. The Plaintiffs have also sought various consequential reliefs in respect of the suit properties, including the cancellation of certain registered gift deeds, deeds of transfer and other instruments under which the suit properties, or some of them, have been dealt with. In the alternative, the Plaintiffs also seek a declaration that the last Will and Testament dated 4th June 2024, purportedly executed by late Veena, is valid and binding upon the Defendants and, on that basis, pray for administration and distribution of her estate insofar as it comprises her alleged self-acquired properties, namely, the Schedule 2 Assets.

3. The Plaintiffs have, in addition, sought a broad declaratory relief to the effect

that all documents and instruments, whether disclosed or otherwise, allegedly executed by their deceased mother at the instance of their deceased brother, in favour of himself and/or Defendant Nos. 1 to 3 in relation to the suit properties, were procured by fraud, coercion, misrepresentation and/or undue influence. On that premise, the Plaintiffs seek to have such documents and instruments declared null and void, cancelled and held to be not binding upon them.

4. In order to properly understand the rival contention of the parties to the Suit, it would be apposite to briefly describe their relationship. The same is set out hereunder:

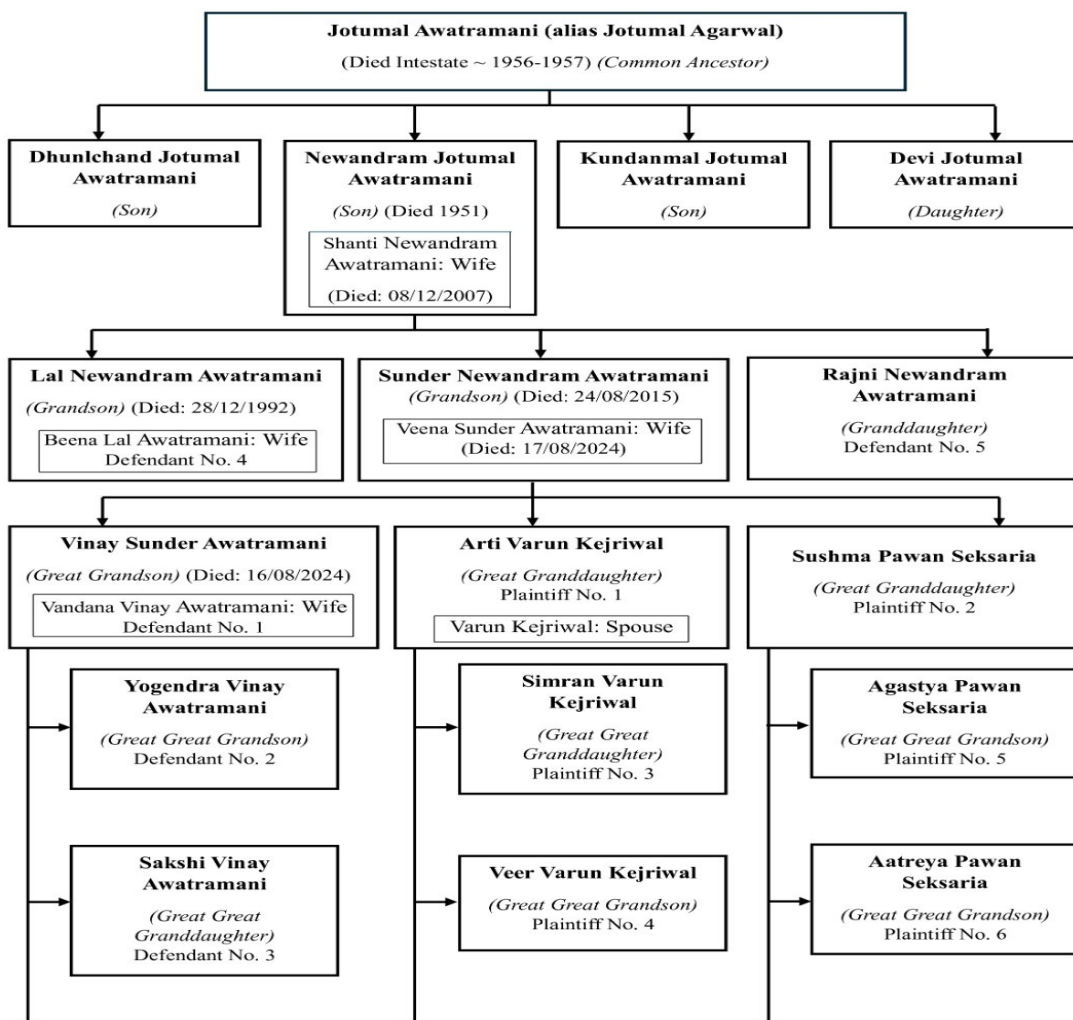
- (i) Late Jotumal Awatramani had four children, namely, Dunichand Awatramani, Newandram Awatramani, Kundanmal Awatramani and Devi Awatramani.
- (ii) Out of these four children, Newandram Awatramani passed away at an early age, leaving behind his wife, Shantibai, and three children, namely, Lal Awatramani, who was married to Beena Awatramani (Defendant No. 4), Sundar Awatramani, who was married to Veena Awatramani, and Rajni Awatramani (Defendant No. 5).
- (iii) Sundar and Veena Awatramani had three children, namely, Arti Kejriwal (Plaintiff No. 1) and Sushma Seksaria (Plaintiff No. 2), and Vinay Awatramani (since deceased). Plaintiff Nos. 3 and

4 are the children of Plaintiff No. 1 whilst Plaintiff Nos. 5 and 6 are the children of Plaintiff No. 2.

(iv) Late Vinay Awatramani was married to Vandana Awatramani, (Defendant No. 1). Defendant Nos. 2 and 3 are their children.

(v) During the course of arguments, the Plaintiffs have tendered a genealogical chart of the Awatramani Family, which is reproduced hereunder, for ready reference:

GENEALOGICAL CHART OF THE AWATRAMANI FAMILY



5. For the sake of convenience, a brief description of the suit properties, comprising the Schedule 1 Assets and the Schedule 2 Assets, as more particularly described in Exhibit "B" to the plaint, is set out hereunder:

"Schedule of Properties"

Part I - Joint Family Properties

1. *Hotel West End Property and Shareholding in M/s. West End Hotel Private Limited*

M/s. West End Hotel Private Limited (Defendant No. 6), was incorporated for the purposes of managing the hotel business known as "Hotel West End" situated at 45, New Marine Lines, Mumbai - 400020, and out of 33.33% shareholding, comprising 16,332 shares of 210 each, 49,000 shares of R100 each, was by members of the Awatramani joint family.

2. *Partnership Rights in M/s. Hotel Kemp's Corner*

The 50% partnership interest in the partnership firm M/s. Hotel Kemp's Corner, having its registered office at 131, August Kranti Road, Kemp's Corner, Malabar Hill, Mumbai - 400036.

3. *Hotel Rooms at "Abhay Chambers"*

The hotel rooms forming part of the business of Hotel Kemp's Corner, situated in the building known as "Abhay Chambers Premises Cooperative Society Ltd.", include Room Nos. 2, 6, 7, 8, 12, and 16. These rooms were acquired in the name of Late Shanti Awatramani and are accompanied by ten fully paid-up shares (five shares bearing Serial Nos. 16 to 20 under Share Certificate No. 04, and five shares bearing Serial Nos. 36 to 40 under Share Certificate No. 08).

4. *Residential Flat at Akash Ganga*

Flat No. 7, in the building known as "Akash Ganga" situated at 89, Bhulabhai Desai Road, Opp. Tata Garden, Cumballa Hill, Mumbai - 400026.

5. *Shares in M/s. Awatramani Investments Private Limited*

A total of 200 shares in the company M/s. Awatramani Investments Private Limited, having its office at 3, Gulbahar Building, Barrack Road, Mumbai - 400020.

6. *Commercial Premises and Wine Business at Shanti Niketan, Mahim*

Shop No. 9, admeasuring approximately 320 sq. ft., situated on the ground floor of the building known as "Shanti Niketan", Plot No. 19, Lady Jamshedji Road, Cross Road No. 1, Mahim, Mumbai - 400016, was acquired in the joint names of Late Sunder and Late Lal Awatramani. A wine shop business known as "Ye Olde Wine Shop" operated with liquor license to run from this premises.

Part II - Self-Acquired Properties of Late Veena Sunder Awatramani

1. 1/12th Share in Amar Jivan Bungalow at Worli

Late Veena Sunder Awatramani was entitled to receive 1/12th of the sale proceeds of her paternal property known as "Amar Jivan Bungalow" bearing No. 19A/Worli-52 Estate, situated at Khan Abdul Gaffar Khan Road, Worli, Mumbai - 400030. The said property was inherited by her from her parental family and is thus her self-acquired/personal property.

2. Bank Accounts of Late Veena Sunder Awatramani

Late Veena Sunder Awatramani maintained the following savings bank accounts in her individual name and operated them independently:

- Yes Bank, Nepean Sea Road Branch - Account No.024753100001280.*
 - Indian Overseas Bank, Nepean Sea Road Branch - Account No. 022201222221439.*
- These accounts contain funds belonging solely to her and constitute her self-acquired movable property."*

- 6.** By the present Interim Application preferred by the Plaintiffs on 26th August 2025, they seek urgent interim/ad-interim protective reliefs, principally against Defendant Nos. 1 to 3, to ensure that, pending the hearing and final disposal of the Suit, the suit properties are not alienated, encumbered, transferred, dissipated, wasted, or otherwise dealt with in a manner prejudicial to their alleged rights and interests. Their apprehension for seeking urgent ad-interim/interim reliefs was premised on the sale of the

Akash Ganga Flat. However, when the matter came up for hearing on 10th September 2025, they were informed that third-party rights were already created therein. This necessitated amendment, not only to the plaint but also the present Interim Application, when the purchasers of the Akash Ganga Flat were impleaded as Defendant Nos. 8 and 9 and additional reliefs were also sought challenging this transaction.

7. At the outset, it is necessary to note that, during the course of hearing of the present Interim Application, the Defendants raised a preliminary objection to the maintainability of the Suit and urged that the said issue be decided at this stage itself. This Court is, however, not inclined to examine the question of maintainability while considering the present Interim Application. The scope of the present order is therefore confined only to the determination of the interim reliefs sought. It is however clarified that the Defendants shall remain at liberty to adopt such proceedings as may be available to them in law to challenge the maintainability of the Suit.

SUBMISSIONS OF THE PLAINTIFF

8. Mr. Ashok Dhanuka, learned counsel appearing on behalf of the Plaintiffs, submits that the Plaintiffs claim a share in the suit properties on the footing that the same constitute joint family properties originating from late Jotumal Awatramani through the branch of late Newandram Awatramani. According

to him, late Jotumal Awatramani and his sons resided together as members of an HUF and carried on various family businesses, including timber, saw mills, hotel management and investments.

9. Elaborating the aforesaid contention, Mr. Dhanuka submits that the timber business of the family was carried on in the name and style of “Jotumal Sons”. In support of his submission that there existed an ancestral nucleus sufficient to establish an HUF, he invites my attention to a Deed of Dissolution dated 28th April 1956. According to him, the said document evidences a structured and income-generating family business, demonstrating the existence of a long-standing commercial enterprise which constituted the ancestral nucleus from which the subsequent acquisitions of the suit properties could have been made.

10. Mr. Dhanuka further submits that the Defendants themselves have relied upon a purported Deed of Family Arrangement dated 15th February 2010, under which Plaintiff No.1 is alleged to have relinquished her rights in the suit properties. According to him, the very execution of such a document constitutes an admission that the suit properties were treated by the parties as HUF properties. He further submits that the Defendants have themselves acknowledged a long-standing family practice of excluding daughters from succession to the Awatramani estate through testamentary dispositions and

that the Plaintiffs have been similarly excluded.

11. On the basis of the aforesaid material, Mr. Dhanuka submits that the Plaintiffs have made out a prima facie case regarding the existence of an HUF possessing an ancestral nucleus and a continuous source of family income. He submits that the legal position is well settled that, once the existence of an HUF and an ancestral nucleus having the capacity to acquire the properties in question is established, a rebuttable presumption arises that the properties so acquired constitute joint family properties. In support of this proposition, he places reliance upon the decisions of the Hon'ble Supreme Court in *D.S. Lakshmaiah v. L. Balasubramanyam*¹ and *Angadi Chandranna v. Shankar*².

12. Upon a query from the Court as to whether, the Plaintiffs having founded their claim upon the existence of an HUF, it would be necessary to implead the other branches of the alleged Jotumal HUF as parties to the Suit, Mr. Dhanuka submits that the Plaintiffs assert rights only in respect of the properties falling to the branch of late Newandram Awatramani and, therefore, the other branches are neither necessary nor proper parties. In support of this submission, he relies upon the decision of the Hon'ble Supreme Court in *Mumbai International Airport Pvt. Ltd. v. Regency*

1 (2003) 10 SCC 310

2 2025 SCC OnLine SC 877

*Convention Centre and Hotels Pvt. Ltd.*³ to contend that where the controversy is confined to specific properties and the parties claiming rights therein, the Suit is maintainable without impleading all possible co-sharers.

13. Mr. Dhanuka further submits that, in any event, the Plaintiffs are entitled to a share in the Schedule 1 Assets under the Will of late Veena. According to him, no probate is required in respect of the said Will since it is a registered Will and, having regard to the amended provisions of Section 213 of the Indian Succession Act, 1925, probate is not mandatory in the case of a Will executed by a Hindu.

14. Insofar as the Akash Ganga Flat is concerned, Mr. Dhanuka submits that no title documents have been produced to establish that late Shantibai Awatramani had acquired the said flat from its erstwhile owner, Mr. Kishore Topandas. He submits that, in the absence of such evidence, it cannot be presumed that the flat constituted the self-acquired property of late Shantibai. He further submits that, as early as 1973, late Shantibai was receiving substantial dividend income from West End Hotel and that the mere fact that the flat stood in her name would not, by itself, establish its self-acquired character, since the consideration for its acquisition could well have been sourced from the income of the family hotel business.

3 (2010) 7 SCC 417

15. Mr. Dhanuka next submits that, during the lifetime of late Veena, a Gift Deed dated 22nd February 2017 came to be executed whereby the Akash Ganga Flat was purportedly gifted to her son, late Vinay. According to him, the Gift Deed was procured by fraud and coercion and no copy thereof was furnished to the Plaintiffs. He therefore submits that the Gift Deed is invalid in law. He further submits that the subsequent transfer of the Akash Ganga Flat by Defendant Nos. 1 to 3 in favour of Defendant Nos. 8 and 9 under a Deed of Transfer dated 28th August 2025 was effected clandestinely. According to him, despite public notices and repeated communications addressed by the Advocates for the Plaintiffs cautioning against any dealings with the property, Defendant Nos. 8 and 9 proceeded with the purchase. He also draws attention to Clause 11 of the Deed of Transfer, which contains an indemnity in relation to the present proceedings and, according to him, evidences the purchasers' prior knowledge of the pending dispute.

16. Mr. Dhanuka further submits that the Akash Ganga Flat was deliberately undervalued by approximately 30% with a view to completing the transaction before any order of injunction could be passed by this Court.

17. Mr. Dhanuka also submits that the Plaintiffs are entitled to a share in the 50% shareholding held by the Awatramani family in Hotel Kemps Corner, on the

ground that the said shareholding was acquired out of the income generated by West End Hotel and consequently forms part of the joint family estate.

18. In conclusion, Mr. Dhanuka submits that the Plaintiffs have established a strong *prima facie* case in respect of the suit properties. He submits that, unless interim protective reliefs are granted, the Plaintiffs would suffer grave and irreparable prejudice.

SUBMISSIONS OF THE DEFENDANTS

19. *Per contra*, Mr. Sharan Jagtiani, learned senior advocate appearing along with Mr. Shyam Kapadia on behalf of Defendant Nos. 1 to 3, at the outset questioned the maintainability of the Suit. He submits that the Plaintiffs have failed to produce any documentary material establishing the existence of the alleged Jotumal HUF or demonstrating that any of the Schedule 1 Assets constitute ancestral or HUF properties.
20. Mr. Jagtiani submits that the burden of establishing that a property has acquired the character of ancestral or HUF property rests squarely upon the person asserting such a claim. In support of this proposition, he places reliance upon the decision of the Hon'ble Supreme Court in *Angadi Chandranna (supra)*.

21. Mr. Jagtiani further submits that the Plaintiffs' reliance upon the Deed of Dissolution dated 28th April 1956 to establish the existence of the alleged Jotumal HUF is wholly misconceived. According to him, the partnership firm stood dissolved in the year 1956, whereas the Akash Ganga Flat was acquired nearly twenty-seven years thereafter, in or about 1973, and Hotel Kemps Corner came to be constituted only in the year 1978. He therefore submits that neither of these assets can be regarded as forming part of any alleged joint family estate.
22. In response to the Plaintiffs' contention that the other branches of the alleged Jotumal HUF are not required to be impleaded, Mr. Jagtiani submits that such a contention is contrary to settled principles governing partition suits. According to him, all co-sharers and other necessary parties are required to be impleaded in a suit seeking partition. In support of this submission, he places reliance upon the decision of the Madras High Court in *M. Ramaswamy v. M.R. Vijayan*⁴.
23. Mr. Jagtiani further submits that the Plaintiffs' reliance upon the Will of late Veena is equally misconceived. According to him, no rights can be claimed thereunder unless the Will is first probated. He submits that the Plaintiffs have, on the one hand, asserted rights on the basis that the suit properties

4 2019 SCC OnLine Mad 27135

constitute HUF properties and, on the other hand, sought to derive title under the said Will, rendering their case inherently inconsistent. He further submits that the Plaintiffs' reliance upon the amended provisions of Section 213 of the Indian Succession Act, 1925 is misplaced, particularly when, the Defendants have disputed the genuineness and validity of the Will. According to him, the validity of the Will can be adjudicated only by the competent Testamentary Court and not in the present proceedings. In support of this submission, reliance is placed on the decision of the Hon'ble Supreme Court in ***Ravinder Nath Agarwal v. Yogender Nath Agarwal & Ors***⁵.

24. Mr. Jagtiani submits that all the Schedule 1 Assets have lawfully devolved or been transferred amongst the members of the family in accordance with their respective titles and that none of the said assets possesses the character of HUF property.
25. Insofar as Hotel Kemps Corner is concerned, Mr. Jagtiani submits that M/s. Hotel Kemps Corner was constituted as a registered partnership firm in the year 1978. He submits that members of the Shringi family collectively held a 50% partnership interest, while the remaining shares were held individually by late Shantibai, Sundar Awatramani and Lal Awatramani, who held 8%, 21% and 21% respectively.

5 AIR 2021 SC 3156

26. Mr. Jagtiani further submits that Hotel Room Nos. 2, 6, 7, 12 and 16 were acquired by Sundar Awatramani together with his partnership interest in Hotel Kemps Corner, whereas Hotel Room No. 8 belonged exclusively to Lal Awatramani. Upon the demise of Lal Awatramani, Hotel Room No. 8 together with his 21% partnership interest devolved upon Defendant No. 4. He further submits that Hotel Room Nos. 2, 6, 7, 12 and 16 were subsequently transferred to late Vinay under the residuary clause of the Will of late Sundar Awatramani by five registered Deeds of Transfer, each executed with late Veena as the confirming party.
27. On the aforesaid basis, Mr. Jagtiani submits that Hotel Kemps Corner does not form part of the assets of the alleged Jotumal HUF. He further submits that, although the Plaintiffs have alleged that late Shantibai was uneducated and that the monies standing in her name were sourced from the alleged Jotumal HUF funds, no material whatsoever has been produced in support of such allegations.
28. Turning to the Akash Ganga Flat, Mr. Jagtiani submits that the Plaintiffs' contention that there is no evidence of its purchase by late Shantibai from the erstwhile owner, Mr. Kishore Topandas, is wholly misconceived. According to him, the burden lies upon the Plaintiffs to establish that the property

constituted ancestral or HUF property and not upon Defendant Nos. 1 to 3 to prove that it was self-acquired. In the absence of any cogent material produced by the Plaintiffs, he submits that no presumption can arise that the Akash Ganga Flat formed part of the alleged Jotumal HUF estate.

29. In answer to the allegation that the sale of the Akash Ganga Flat was clandestine, Mr. Jagtiani submits that the purchasers had issued a public notice dated 9th May 2025 prior to the transaction, thereby completely dispelling any suggestion that the sale lacked transparency. He further submits that the Plaintiffs were admittedly never in possession of the flat. Had they in fact been in possession, as alleged, they would necessarily have been aware of the proposed transaction.

30. As regards the allegation that the Akash Ganga Flat was sold at an undervalue, Mr. Jagtiani submits that no material has been placed on record to substantiate such a contention. According to him, the Plaintiffs have neither produced any valuation report nor any other independent material in support of the allegation.

31. Mr. Jagtiani further submits that the Plaintiffs have challenged the Gift Deed dated 22nd February 2017, whereby late Veena gifted the Akash Ganga Flat to late Vinay. According to him, the Plaintiffs had obtained a copy of the said

Gift Deed as early as December 2021 but took no steps to challenge the same until the institution of the present Suit in August 2025. He therefore submits that the challenge is devoid of bona fides and demonstrates that the present proceedings have not been instituted with any genuine or bona fide grievance. More so, he submits that in order to revoke a registered gift deed, it is the donor who has to make an application for the same and it cannot be done by an aggrieved third-party, especially after the demise of the donor. Reliance is placed on the decision of the Hon'ble Supreme Court in *N. Thajudeen v. Tamil Nadu Khadi and Village Industries Board*⁶ to support this submission.

32. In conclusion, Mr. Jagtiani submits that the Plaintiffs have failed to establish either a *prima facie* entitlement to any of the Schedule 1 Assets or the existence of the alleged Jotumal HUF. He therefore submits that no case is made out for the grant of any of the interim reliefs sought in the present Interim Application.
33. Mr. Karl Tamboly, learned counsel appearing on behalf of Defendant No. 7, submits that his client, namely, Hotel Kemps Corner, is a registered partnership firm constituted by members of the Shringi family and the Awatramani family. He submits that the Plaintiffs have never, at any point of

6 2024 SCC OnLine SC 3037

time since the constitution of the partnership, been partners of Defendant No. 7 or had any role whatsoever in its management or day-to-day affairs. According to him, the present proceedings, insofar as they concern Defendant No. 7, have been instituted solely with a view to harass the partnership firm, despite the Plaintiffs having no manner of right, title or interest therein.

34. Mr. Tamboly submits that the Plaintiffs' claim against Defendant No. 7 is founded principally on the allegation that the partnership interests acquired by members of the Awatramani family were purchased out of funds or dividends received from West End Hotel, which the Plaintiffs assert, forms part of the assets of the alleged Jotumal HUF.
35. He submits that such a contention is wholly misconceived. According to him, if Hotel Kemps Corner were to constitute property of the alleged Jotumal HUF, it would necessarily follow that the HUF itself ought to have been a partner in Defendant No. 7. He submits that the Plaintiffs cannot seek to characterize the partnership interests held by individual partners, as HUF property, merely on the basis of an allegation that the consideration for acquiring such interests was sourced from dividends or other funds received from West End Hotel, which is itself alleged to be HUF property.
36. Mr. Tamboly therefore submits that, in the absence of any material

establishing that the Plaintiffs possess any right, title or interest in Defendant No. 7 as ancestral or HUF property, they cannot assert any claim in respect thereof on the basis of vague and unsubstantiated allegations.

37. Mr. Tamboly further submits that the Plaintiffs have failed to satisfy the well-settled requirements governing the grant of interim relief. According to him, the Plaintiffs have failed to establish a *prima facie* case, having neither demonstrated any enforceable right in respect of Defendant No. 7 nor produced any cogent documentary material in support of their assertions.
38. He further submits that the balance of convenience is entirely in favour of Defendant No. 7. According to him, the grant of any interim injunction would seriously prejudice the business and commercial operations of the partnership firm at the instance of persons who have no legal or commercial relationship with it.
39. Lastly, Mr. Tamboly submits that no irreparable prejudice would be caused to the Plaintiffs if interim reliefs are refused, since they have failed to establish any subsisting right or interest in Defendant No. 7. He therefore submits that the present Interim Application, insofar as it seeks reliefs against Defendant No. 7, is wholly misconceived, mala fide and vexatious.

40. Mr. Haresh Jagtiani, learned senior advocate appearing on behalf of Defendant No. 4, who is the widow of late Lal Awatramani, submits that the Plaintiffs have not made any specific allegation against Defendant No. 4, notwithstanding that she has been impleaded as a party to the present proceedings. He submits that Defendant No. 4 was married to late Lal Awatramani, who held a 21% partnership interest in Hotel Kemps Corner and was also the owner of Room No. 8 situated therein. Upon the demise of Lal Awatramani, intestate, in the year 1992, his mother, late Shantibai, and Defendant No. 4 were his only Class I legal heirs. In the ordinary course, the estate of late Lal Awatramani would have devolved upon them in equal shares. However, late Shantibai relinquished her share in the estate in favour of Defendant No. 4, as a consequence whereof, Defendant No. 4 became the sole owner of the said 21% partnership interest in Hotel Kemps Corner as well as Room No. 8 situated therein.

41. Mr. Haresh Jagtiani further submits that he adopts the submissions advanced by Mr. Sharan Jagtiani and Mr. Karl Tamboly in support of their contention that the Plaintiffs have failed to establish the existence of the alleged Jotumal HUF. He submits that the Plaintiffs' case is wholly devoid of merit and that, not only the present Interim Application, but also the Suit deserves to be dismissed with exemplary costs.

42. Mr. Rumi Mirza, learned Counsel appearing on behalf of Defendant Nos. 8 and 9, who are the purchasers of the Akash Ganga Flat, submits that his clients are *bona fide* purchasers for valuable consideration and are complete strangers to the inter-sé disputes amongst the members of the Awatramani family. He submits that the Gift Deed executed by late Veena in favour of late Vinay in respect of the Akash Ganga Flat has never been challenged by the Plaintiffs within a reasonable period of time. According to him, the Plaintiffs cannot now, by instituting the present Suit, seek to impugn the subsequent conveyance of the said flat in favour of Defendant Nos. 8 and 9.

ANALYSIS, REASONS AND FINDINGS

43. I have considered the rival submissions and perused the pleadings and the material placed on record. The present application seeks interlocutory protection and it is therefore incumbent upon the Plaintiffs to establish the existence of a strong *prima facie* case, the balance of convenience in their favour and the likelihood of irreparable injury in the event interim relief is refused. Unless the first requirement is satisfied, the remaining two considerations scarcely arise.
44. The entire edifice of the Plaintiffs' case rests upon the assertion that the Schedule 1 Assets form part of an alleged HUF, styled as “*Jotumal and Sons HUF*”. It is well settled that there is no legal presumption that every Hindu

family is possessed of joint family property or that every property standing in the name of a family member necessarily assumes the character of joint family property or HUF property. The burden squarely lies upon the party asserting such a case to first establish the existence of a joint family nucleus of sufficient strength and to further demonstrate a reasonable nexus between such nucleus and the acquisition of the properties sought to be impressed with the character of HUF properties.

45. It is only after such foundational facts are established that the evidentiary burden shifts to the person asserting self-acquisition. This principle is authoritatively laid down by the Hon'ble Supreme Court in ***D.S. Lakshmaiah*** (supra) and ***Angadi Chandranna*** (supra). Ironically, in the present case, the very judgments relied upon by the Plaintiffs emphasize the burden which the Plaintiffs themselves have failed to discharge.
46. The sole document relied upon by the Plaintiffs to establish the existence of the alleged ancestral nucleus is the Deed of Dissolution dated 28th April 1956. *Prima facie*, this document advances the Plaintiffs' case no further. At the highest, it evidences that certain persons were carrying on business through a partnership which came to be dissolved in the year 1956. A deed dissolving a commercial partnership cannot, without anything more, establish either the existence of an HUF or the continued existence of an ancestral nucleus

capable of financing acquisitions made decades thereafter.

47. Significantly, the Akash Ganga Flat is stated to have been acquired in or about 1973, nearly seventeen years after the dissolution of the partnership, while Hotel Kemps Corner came into existence only in the year 1978. The Plaintiffs have placed no material whatsoever, demonstrating the existence of any continuing ancestral fund between 1956 and the dates of acquisition of these assets. Equally absent is any material establishing that the consideration for acquiring any of the Schedule 1 Assets emanated from such alleged nucleus.
48. Mere assertions that the family was engaged in several businesses, or that income was generated from those businesses, cannot substitute legal proof. The Plaintiffs have produced no books of account, income-tax records, balance sheets, financial statements, acquisition documents or any contemporaneous evidence capable of even *prima facie* establishing that the acquisitions were made from joint family funds. A careful scrutiny of the pleadings discloses that such material/documents find no reference whatsoever therein. They have neither been relied upon nor has any leave been sought to refer to or place reliance upon them. Instead, the Plaintiffs' entire case is founded on inference and conjecture.

49. The Plaintiffs also sought to contend that the alleged Family Arrangement dated 15th February 2010 itself constitutes an admission that the suit properties were HUF properties. *Prima facie*, I am unable to accept this submission. The mere execution of a family arrangement does not, by itself, determine the juridical character of the properties dealt with therein. Whether parties chose to settle disputes amongst themselves cannot be elevated into proof of the existence of an HUF, particularly in the complete absence of foundational evidence establishing the existence of such HUF.
50. Equally significant is the fact that the Plaintiffs themselves appear uncertain regarding the very source of their alleged entitlement. On one hand, they assert that the Schedule 1 Assets constitute HUF properties belonging to the alleged Jotumal HUF. On the other hand, they simultaneously claim rights therein under the purported Will of late Veena.
51. These two foundations are not merely alternative legal pleas; they are fundamentally destructive of one another. If the properties truly constituted coparcenary properties of an HUF, late Veena could not ordinarily claim absolute testamentary authority over them. Conversely, if the Plaintiffs' rights flow under late Veena's Will, the premise necessarily is that the properties were capable of testamentary disposition by her in her individual capacity. Both propositions cannot simultaneously co-exist in respect of the same

properties. In any event, and most importantly, the Plaintiffs cannot come to Court with such mutually inconsistent and destructive pleas.

52. The inconsistency does not end there. While the Plaintiffs allege that every transfer effected by late Veena during her lifetime, including the Gift Deed dated 22nd February 2017 was the product of fraud, coercion and undue influence, they simultaneously seek, in the alternative, the enforcement of another testamentary instrument allegedly executed by her. The Plaintiffs thus invite the Court to accept one document executed by late Veena as genuine while treating the others as fraudulent, without placing any *prima facie* material justifying such distinction. This approach, at least at the interlocutory stage, also considerably weakens the credibility of the Plaintiffs' case. This Court finds merit in the reliance placed by Mr. Jagtiani on the decisions in ***Ravinder Nath Agarwal*** (supra) and ***N. Thajudeen*** (supra), as they are applicable to the facts of the present case.

53. The Plaintiffs also seek partition of what they describe as properties belonging to an HUF tracing its origin to late Jotumal Awatramani. Yet, when queried by the Court, they contend that only the branch of late Newandram Awatramani is required to be impleaded in the present proceedings and that the remaining branches are neither necessary nor proper parties.

54. *Prima facie*, this submission cannot be accepted. If the Plaintiffs' own case is that the properties belong to an HUF originating from the common ancestor, any adjudication regarding the existence of such HUF, the nature of its assets and the shares of its members would necessarily affect every branch of the HUF. A partition of only one branch of an alleged larger HUF is, *prima facie*, conceptually incompatible with the very foundation of the Plaintiffs' pleadings.
55. The reliance placed by the Plaintiffs, upon the decision in ***Mumbai International Airport Pvt. Ltd.*** (supra) is misplaced. The principle laid down therein is that all persons whose rights are likely to be directly affected constitute necessary parties. Applying that very principle, every branch claiming through late Jotumal Awatramani would, *prima facie*, be a necessary party if the Plaintiffs seek adjudication upon the existence and partition of the alleged HUF estate. Accordingly, the reliance placed by Mr. Jagtiani on the decision in ***M. Ramaswamy*** (supra) is apposite to the facts of the present case.
56. Turning to the challenge to the Gift Deed dated 22nd February 2017 relating to the Akash Ganga Flat, the Plaintiffs have alleged fraud, coercion and undue influence. These are serious allegations requiring strict proof. At the interlocutory stage, such allegations remain unsubstantiated. More

importantly, it is not disputed that the Plaintiffs had knowledge of the Gift Deed since at least December 2021. At that time, both the said persons, namely, their mother, late Veena and their brother, late Vinay, were alive. Despite such knowledge, proceedings were instituted only in August 2025, after their demise. No satisfactory explanation for this prolonged inaction has been offered. Such unexplained delay not only materially dilutes the urgency now sought to be projected but also weakens the credibility of the Plaintiffs' case.

57. The challenge to the subsequent transfer in favour of Defendant Nos. 8 and 9 equally does not advance the Plaintiffs' case. Once the Plaintiffs have failed to establish even a *prima facie* proprietary interest in the Akash Ganga Flat, the question of restraining subsequent dealings therein does not arise. Allegations regarding undervaluation, clandestine transfer or purchaser's knowledge remain disputed questions which cannot substitute proof of the Plaintiffs' own title.
58. The same reasoning applies to the claims concerning Hotel Kemps Corner and the alleged interest in West End Hotel. The Plaintiffs have not produced any *prima facie* material demonstrating that the partnership interests were ever acquired by an HUF or that they presently possess any enforceable legal interest therein. Mere assertions that the acquisition may have been funded

from family income are unsupported by any documentary evidence.

59. At every stage of the hearing, the Plaintiffs were called upon to identify some contemporaneous document capable of establishing the existence of the alleged Jotumal HUF, the continuance of an ancestral nucleus or the flow of funds from such nucleus into the acquisition of the Schedule 1 Assets. No such material has been forthcoming.
60. The present Interim Application therefore proceeds almost entirely on assumptions: *first*, that an HUF existed; *secondly*, that it possessed a substantial ancestral nucleus; *thirdly*, that the nucleus continued for decades; *fourthly*, that subsequent acquisitions were financed from that nucleus; and *finally*, that every property listed in Schedule 1 Assets and presently standing in individual names consequently acquired the character of HUF property. None of these assumptions is presently supported by cogent material.
61. The jurisdiction to grant interim injunctions cannot be exercised on speculative or conjectural claims. Before the Court restrains persons who admittedly hold title or possession of valuable assets from dealing with their properties, the applicant must establish at least a credible and legally sustainable *prima facie* right. The Plaintiffs have failed to cross even this threshold.

62. Consequently, the Plaintiffs have failed to establish a *prima facie* case. Once that finding is reached, the balance of convenience necessarily tilts in favour of preserving the rights of those presently holding title rather than restraining them on the basis of an unsubstantiated claim. Equally, no case of irreparable injury is made out when the very existence of the asserted right remains doubtful.
63. In the overall facts of the case, the Plaintiffs' claim, as pleaded, in the present Interim Application suffers from the dual infirmities of absence of foundational evidence and mutually destructive pleas. The interlocutory reliefs sought therein, are founded more on suspicion than on *prima facie* proof. For all the reasons recorded hereinabove, I am of the view that the Plaintiffs have failed to establish any legal basis warranting the grant of interim protection. On the contrary, the present Interim Application is devoid of merit. The same is accordingly dismissed. There shall be no order as to costs.

(FARHAN P. DUBASH, J.)

Shubham Gadhavapatil