

**The**  
**Maharashtra Law Journal®**  
ENGLISH LEGAL MONTHLY JOURNAL

Vol. 5

**2024(5)**

Issue No. 1

Journal, Acts etc. 1 to 16; Reports 1 to 400

[Mode of Citation 2024(5) Mh.L.J. .... ]

**5 JUDGE BENCH DECISION**

— Municipalities Act, 1965, S. 63(2B) — *Election of Municipal Council — Councillor elected as an independent candidate and has become part of Aghadi is governed by S. 3 of Local Members' Disqualification Act, 1986 — Such Aghadi will be treated as a pre-poll Aghadi for all purposes.*

[See 2024(5) Mh.L.J. (Spl. Bench) 230]

\*\*\*\*\*

**3 FULL BENCH DECISIONS**

— Civil Procedure Code, S. 9-A — *While exercising power under section 9-A, trial Court cannot frame an issue which has effect of disposing of suit in part or cause of action in part — Under section 9-A trial Court can frame an issue of jurisdiction only if result of such issue would dispose of suit or cause of action in its entirety.*

[See 2024(5) Mh.L.J. (F.B.) 170]

— Increment — *Notfn. granting benefit of one advance increment Government granting benefit also has power to take away benefits.*

[See 2024(5) Mh.L.J. (F.B.) 186]

— Mumbai Municipal Corpn. Act, 1888 — Water tax under section 141(1)(a)(i) can be levied irrespective of fact whether water is actually consumed by owner/occupier or not — Water benefit tax is for meeting expenditure for providing, operating and maintaining water supply facility and water works — Water charges payable under section 169(1)(ii) of Act is in lieu of payment of 'water tax' and 'water benefit tax'.

[See 2024(5) Mh.L.J. (F.B.) 388]

Annual Subscription for 2024 in 6 Vols. ₹ 4,800/- (By B. P.) ₹ 5,100/- (By Regd. Post)  
Price of this issue — ₹ 480/-

Complaint of non-receipt of issue will be considered if complaint is received within three months from the date of despatch.

## NOMINAL INDEX — SEPTEMBER 2024

Afsar Ali Sajjad Shah vs. Shera Ali Sajjad Ali Shah	280
Ambarwadikar and Company, Aurangabad vs. State of Maharashtra	160
Arif Azim Co. Ltd. vs. Aptech Ltd.	(S.C.) 54
Ashish Namdeo Sonkamble vs. State of Maharashtra	91
Baburao s/o Mohanrao Bawane vs. State of Maharashtra	(F.B.) 186
Bhikchand s/o Dhondiram Mutha (deceased) through LRs. vs. Shamabai Dhanraj Gugale (deceased) through LRS.	(S.C.) 19
Dilip Gulelkar vs. State of Goa	201
Dinesh Bhanudas Chandanshive vs. State of Maharashtra	124
Dr. Suman V. Jain vs. Marwadi Sammelan through its Secretary	(S.C.) 109
Dwarkabai d/o Purnaji Bhoi vs. Scheduled Tribe Certificate Scrutiny Committee, Amravati	399
Govinda Goga Donde vs. Mayur Ramesh Bora	(F.B.) 170
Janadhar Sevabhavi Sanstha, Latur vs. State of Maharashtra	135
Kamlakar Purushotam Inamdar vs. Rajani Shriram Madiwale	372
Kumar Gorakhnath Shinde vs. State of Maharashtra	(Spl. Bench) 230
Kundlik s/o Mahadu Dighe (died) thr. his Legal Heirs Vasant Kundalik Dighe thr. GPA Holder vs. Tulshiram s/o Dhondiba Shinde	214
Lata Rajesh Shetty @ Latha Rajesh Shetty vs. Satish Surappa Poojari	195
Latika Sharad Joshi (since deceased) vs. Additional Divisional Commissioner, Nagpur	313
Maharashtra State Wrestling Association, Pune vs. State of Maharashtra	225
Major Gen. Darshan Singh (D) by L.Rs. vs. Brij Bhushan Chaudhary (D) by L.Rs.	(S.C.) 38
Mars Enterprises, Mumbai vs. Mumbai Municipal Corporation of Gr. Mumbai	(F.B.) 388
Narendra Namdev Mulik vs. Ananda Demji Chougale	286
Navjivan Commercial Premises Co-operative Society, Mumbai vs. Navjivan Co-operative Housing Society, Mumbai	299
Nikhil Meena Patel vs. Union Territory of Dadra and Nagar Haveli and Daman and Diu Secretariat, Daman (U.T.)	221
Pathapati Subba Reddy (died) by L.Rs. vs. Special Deputy Collector (LA)	(S.C.) 100
Patil Samgonda Namgonda vs. State of Maharashtra	355

R. S. Madireddy vs. Union of India	
Reliance Jio Infratel Pvt. Ltd. vs. State of Goa	(S.C.) 9
Sar Senapati Santaji Ghorpade Sugar Factory Ltd., Kolhapur vs. Assistant Commissioner of Income Tax, Pune	14
Satish Sahebrao More vs. District Collector, Nashik	29
Shreyash Ajay Ghormare vs. Scheduled Tribe Caste Certificate Scrutiny Committee, Gondia	34
Suman L. Shah vs. Custodian	(S.C.) 4
Sunni Muslim Chota Qabrastan vs. Anisuddin Mohammad Jamil	34
Trimurti Sahakari Griha Nirman Sanstha Ltd., Kolhapur vs. Additional Commissioner, Pune	27
Vaibhav s/o Premraj Bhandari vs. State of Maharashtra	36

## SUBJECT INDEX — SEPTEMBER 2024

**Abandonment** — *Abandonment is a principle of equity — Every right including right to prefer an appeal, can be abandoned — But whether there is a abandonment would depend on the facts of each case — Abandonment can be either express or implied.* [Patil Samgonda Namgonda vs. State of Maharashtra] 35

**Advocate** — *Duty of Advocate — When a litigant entrusts his case to particular Advocate, it is duty of Advocate to attend hearing — If advocate does not appear and case gets dismissed, it is not litigant's fault — An Advocate not attending to matter after having accepted brief would be failing in his duty, not only to client who has engaged him but also to Court of which he is officer — An Advocate is not expected to take up matters which he is not in a position to attend — If he takes up matter, he should ensure that the litigant does not suffer on account of his non appearance.* [Ashish Namdeo Sonkamble vs. State of Maharashtra] 9

**Arbitration** — *Cause of action — Determination of — Mere failure to pay may not give rise to a cause of action — However, once applicant has asserted its claim and respondent has either denied such claim or failed to reply to it cause of action will arise after such denial or failure.* [Arif Azim Co. Ltd. vs. Apteck Ltd.] (S.C.) 54

**Arbitration and Conciliation Act (26 of 1996), SS. 11(6) and 21** — See *Limitation Act (36 of 1963), Art. 137.* [Arif Azim Co. Ltd. vs. Apteck Ltd.] (S.C.) 54

**Arbitration and Conciliation Act (26 of 1996), SS. 11(6) and 43** — See *Limitation Act (36 of 1963), Art. 137.* [Arif Azim Co. Ltd. vs. Apteck Ltd.] (S.C.) 54

**Arbitration and Conciliation Act (26 of 1996), SS. 11(6), 43 and 21** — See *Limitation Act (36 of 1963), SS. 137.* [Arif Azim Co. Ltd. vs. Apteck Ltd.] (S.C.) 54

**Bombay High Court (Original Side) Rules, 1980, R. 400 and Succession Act (39 of 1925), S. 263(a) and (b)** — *Letter of administration — Revocation of — Non service of citation — Only when attempt made to personally serve citation fails or it becomes impossible to serve personally, recourse can be taken to Rule 400 of Rules by resorting to publication — When respondent claimed in testamentary*