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MCC-2141-2025

IN THE HIGH COURT OF MADHYA PRADESH  
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

ON THE 11<sup>th</sup> OF MARCH, 2026MISC. CIVIL CASE No. 2141 of 2025*RAM SWAROOP AND OTHERS**Versus**HARIMOHAN SINGH AND OTHERS*

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Appearance:

*Shri Sanjay Kumar Dwivedi and Shri Yadunath Bhardwaj - Advocates for applicants.*

*Shri R.P. Singh and Shri Pratip Visoriya - Advocates for respondent Nos. 1 and 2.*

*Shri G.P. Chaurasia - Advocate for respondent Nos. 3 to 5.*

*Shri C.P. Singh - Govt. Advocate for respondent No. 7.*

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ORDER

This MCC under Order XXXIX Rule 2A CPC has been filed complaining breach of temporary injunction order dated 07/11/2023 passed in Second Appeal No. 1384/2023, as well as order dated 14/08/2024, by which temporary injunction order dated 07/11/2023 was continued.

2. It is the case of applicants that Respondent Nos. 1 and 2, along with other co-sharers, have filed Second Appeal No. 1384/2023, and on their instance, an interim order to maintain *status quo* was passed regarding the suit property. In spite of that, Respondent No. 2 - Shivratan executed a sale deed dated 06/12/2023 in favor of Respondent No. 3 - Smt. Neetu in respect of Survey No. 79, area 0.11 hectare, situated in Village Gangepura, Tehsil Lahar, District Bhind. Similarly, by another sale deed dated 06/12/2023, Respondent No. 1 - Harimohan executed a sale deed in favor of Respondent No. 3 in respect of Survey No. 80, area 0.12 hectare, situated in Village Gangepura, Tehsil Lahar, District Bhind.



3. By order dated 08/10/2025, notices were issued to Respondent Nos. 1 to 5 and 7. Notices issued to Respondent Nos. 1 to 5 were returned with a common endorsement that in spite of frequent visits by Postman to the houses of noticees, they were not found in the house, and they had gone out of station. Sensing foul play as well as under an impression that looking to the common endorsement, it appears that notices have been deliberately avoided by Respondent Nos. 1 to 5, this Court, by order dated 18/02/2026, issued arrest warrants against Respondent Nos. 1 to 5. On 27/02/2026, Respondent Nos. 1, 2, and 4 appeared before this Court and prayed for cancellation of arrest warrants, and accordingly, on deposit of costs of Rs. 10,000/- each, arrest warrants issued against Respondent Nos. 1, 2, and 4 were recalled, and the case was directed to be listed on 10/03/2026 as it was already directed by this Court by order dated 18/02/2026. On 09/03/2026, Respondent Nos. 3 and 5 were produced by the police in execution of arrest warrants, and accordingly, they were also released on bail on furnishing personal bonds, and accordingly, case was taken up on 10/03/2026. On 10/03/2026, in the first half of the day, Respondent Nos. 1 and 2 did not appear and when this Court expressed its intention that it would again issue arrest warrants, then counsel for Respondent Nos. 1 and 2 prayed for some time to enable them to appear before this Court, and accordingly, at the request of counsel for Respondent Nos. 1 and 2, case was taken up at 4:30 p.m., and at that time, Respondent Nos. 1 and 2 also appeared in person and prayed for time to file reply. Accordingly, the case was adjourned, and today case is heard on merits as Respondent Nos. 1 to 5 have already filed their returns. It is not out of place to mention here that Shri R.P. Singh Advocate who is also appearing for respondents no. 1 and 2, is also a co-sharer in the disputed property and is a co-appellant, therefore, it is clear that respondents no. 1 and 2, are cousin brothers of Shri R.P. Singh, Advocate.



**Role of Respondent Nos. 1 and 2:**

4. It is submitted by counsel for Respondent Nos. 1 and 2 that the land which has been sold, i.e., Survey Nos. 79 and 80, was not the subject matter of dispute, and therefore, no case for breach of temporary injunction order is made out. By referring to the decree passed by Trial Court, it is submitted that no decree in respect of the properties mentioned in Schedule 4 of the plaint was passed, and rights of plaintiffs to the extent of 1/3rd share was declared only in respect of properties mentioned in Schedules 2 and 3, and since Survey Nos. 79 and 80 are mentioned in Schedule 4, therefore, properties which have been sold are not the subject matter of dispute.

5 . *Per contra*, it is submitted by counsel for applicants that in fact, properties mentioned in Schedule 4 merely describe renumbering of the properties. So far as Survey Nos. 79 and 80, as mentioned in Schedule 4, are concerned, it is specifically mentioned that original survey numbers of Survey Nos. 79 and 80 was 105/1 and 105/2, respectively. By referring to Schedule 3 of the plaint, it is submitted that Survey Nos. 105/1 and 105/2 are one of the subject matter of civil suit and, 1/3rd share of plaintiff has also been declared in respect of Survey Nos. 105/1 and 105/2. It is further submitted that the Trial Court had specifically clarified in its judgment dated 04/07/2018 that said judgment would not apply to Survey Nos. 663, 665, 667, 669, and 1170, total area 1.196 hectares. Therefore, Survey Nos. 79 and 80 are the subject matter of dispute in suit as well as in appeal, thus, it is clear that contention of Respondent Nos. 1 and 2 that they have sold undisputed properties is misconceived.

6. Considered the submissions made by counsel for applicants as well as Respondent Nos. 1 and 2.



7. In Schedule 4, plaintiffs had mentioned new numbers of old survey numbers, and Schedule 4 to the plaint was filed with solitary intention to provide new survey numbers of the disputed properties. Disputed lands are mentioned in Schedules 2 and 3 of the plaint.

8. So far as properties mentioned in Schedule 1 are concerned, it was already held by the Trial Court that in view of compromise decree drawn on earlier occasion, no judgment is required in respect of properties mentioned in Schedule 1. However, it was specifically held that plaintiffs have 1/3rd share in the properties mentioned in Schedules 2 and 3, except five survey numbers i.e., 663, 665, 667, 669, and 1170, total area 1.196 hectares. Survey Nos. 105/1 and 105/2, whose new numbers are 79 and 80, were specifically mentioned in Schedule 3, and a declaration has also been given by the Trial Court that plaintiffs have 1/3rd share in the properties mentioned in Schedules 2 and 3. Therefore, it is clear that Survey Nos. 79 and 80, whose old survey numbers were 105/1 and 105/2, are the subject matter of dispute, and therefore, contention of counsel for Respondent Nos. 1 and 2 that properties which have been sold by Respondent Nos. 1 and 2 are not the subject matter of Second Appeal is misconceived and is false even to the knowledge of Respondent Nos. 1 and 2.

9. Thus, it is held that in spite of the fact that Survey Nos. 79 and 80, whose old survey numbers were 105/1 and 105/2, are the subject matter of dispute, still Respondent Nos. 1 and 2 have consciously sold the said property to Respondent No. 3 in spite of a temporary injunction order which was passed at the instance of Respondent Nos. 1, 2, and other co-sharers including Shri R.P. Singh, Advocate, who is one of the counsel for the respondents no. 1 and 2, themselves.

10. It is not out of place to mention here that Respondent No. 1 is a practicing lawyer and he knows everything about the niceties and complexity of



law. He is also well aware of the fact that the property, which was being sold, is the subject matter of suit in respect of which 1/3rd share of plaintiff has already been declared, still, he consciously and deliberately alienated Survey No. 80 (old Survey No. 105/2) to Respondent No. 3, and Respondent No. 2 deliberately sold Survey No. 79 (old Survey No. 105/1) to Respondent No. 3 and **also handed over the possession thereof.**

11. So far as return of notice of this MCC with endorsement that Respondent No. 1 is not available in his house and has gone out is concerned, it is fairly conceded by counsel for respondent No. 1 that during that period, Respondent No. 1 was continuously appearing before different Courts and had also performed his job as Oath Commissioner.

12. Thus, it is clear that Respondent No. 1, along with other respondents, had deliberately and consciously managed to return the notices of this MCC by obtaining a false endorsement from the concerning Postman. This conduct of Respondent No. 1 clearly shows his hostile and disrespectful attitude towards the Court.

13. Thus, it is held that Respondent Nos. 1 and 2 are guilty of deliberately and consciously committing breach of temporary injunction orders dated 07/11/2023 and 14/08/2024 passed in Second Appeal No. 1384/2023.

**Role of Respondent No. 3:**

14. It is submitted by Shri G.P. Chaurasia that Respondent No. 3 is a *bona fide* purchaser and she was not informed by Respondent Nos. 1 and 2, or even by applicants, that second appeal is pending or that there is any temporary injunction order. By referring to sale deed dated 06/12/2023 executed by Respondent No. 2 in favor of Respondent No. 3, it is submitted that in fact, a false declaration was



given by Respondent No. 2 that there is no stay on the land in dispute and it is free from encumbrances. Similarly, by referring to sale deed dated 06/12/2023 executed by Respondent No. 1 to Respondent No. 3, it is submitted by counsel for Respondent No. 3 that a false information was given by Respondent No. 1 that there is no stay and the land is free from all encumbrances. It is further submitted that even applicants did not inform Respondent No. 3 about the pendency of appeal or existence of stay. However, it was fairly conceded by Shri G.P. Chaurasia that before purchasing the property, no public notice was given to the residents of Village Gangepura either by beat of drums or by any publication in a newspaper. However, it was submitted by Shri G.P. Chaurasia that whoever is the resident of Village Gangepura was aware of the pendency of appeal as well as the temporary injunction order, and everybody knew that Respondent No. 3 is going to purchase the property, therefore, it was also obligatory on the part of applicants to inform Respondent No. 3. While such an argument was being made by Shri G.P. Chaurasia, Advocate, this Court tried to explain to the Shri Chaurasia, Advocate, that the aforesaid submission which is being made by him may land Respondents Nos. 3 to 5 in difficulty because they are also the residents of same village, but instead of understanding the consequences of his arguments, he aggressively repeated the same arguments.

15. Considered the aforesaid submissions made by counsel for Respondent No. 3.

16. From the cause title, it is clear that applicants are not the residents of Village Gangepura, Tehsil Lahar, District Bhind, but they are residents of Gwalior and their permanent address is Alampur, Tehsil Lahar, District Bhind. However, it was fairly conceded by Shri R.P. Singh, Advocate, who is appearing for Respondent No. 1 and is also a co-sharer and co-appellant, that Alampur is 4



kilometers away from Village Gangepura.

17. Be that whatever it may be.

18. According to Shri G.P. Chaurasia, all the residents of Village Gangepura were aware of the pendency of appeal as well as of stay/temporary injunction order, and therefore, applicants should have informed Respondent No. 3 about the stay, but in fact, said argument has proved to be a boomerang for Respondent No. 3. Respondent No. 3 is also the resident of Village Gangepura, Tehsil Lahar, District Bhind. If all the residents of Village Gangepura were aware of the pendency of appeal as well as of stay/temporary injunction, then it is clear that even Respondent No. 3 was also aware of pendency of appeal and existence of stay/temporary injunction order, and in spite of that, she purchased the property in dispute. Therefore, contention of counsel for Respondent No. 3 that Respondent No. 3 was a *bona fide* purchaser and was having no information about the pendency of appeal, as well as existence of stay/temporary injunction order, is misconceived and is hereby rejected.

19. Thus, it is held that Respondent No. 3 has purchased Survey Nos. 79 and 80 situated in Village Gangepura, Tehsil Lahar, District Bhind, knowing fully well that an appeal is pending and a stay order is in existence.

**Role of Respondent Nos. 4 and 5:**

20. Shri G.P. Chaurasia, who is also appearing for Respondent Nos. 4 and 5, reiterated the same defense which was addressed in respect of Respondent No. 3. Respondent Nos. 4 and 5 are also the residents of Village Gangepura, Tehsil Lahar, District Bhind. If all the residents of Village Gangepura, Tehsil Lahar, District Bhind were aware of pendency of appeal and existence of stay, then by facilitating Respondent Nos. 1 and 2 by signing the sale deed as attesting



witnesses, Respondent Nos. 4 and 5 have also committed breach of temporary injunction orders dated 07/11/2023 and 14/08/2024.

21. Accordingly, all respondents, namely Respondent No. 1 - Harimohan Singh, Respondent No. 2 - Shivratan Singh, Respondent No. 3 - Smt. Neetu Kushwah, Respondent No. 4 - Gaya Prasad Kushwah, and Respondent No. 5 - Pushpendra Kushwah are held guilty of committing breach of temporary injunction orders dated 07/11/2023 and 14/08/2024 passed in Second Appeal No. 1384/2023.

**Role of Respondent No. 7:**

22. It is submitted by counsel for Respondent No. 7 that Respondent No. 7 was not a party to the Second Appeal and, therefore, on the basis of sale deeds executed by Respondent Nos. 1 and 2, name of Respondent No. 3 was mutated in the revenue records. Even it is not the case of applicant, that any information was ever given to Respondent no. 7 with regard to order dated 07/11/2023. So far as non-compliance of order dated 14/08/2024 is concerned, it is submitted that Respondent no. 7 was transferred on 23/09/2024, therefore, in absence of any information, he could not comply the order dated 14/08/2024.

23. Considered the submissions made by Counsel for Respondent no. 7.

24. According to applicants, copy of the order dated 14/08/2024 was sent to Collector, Bhind and Respondent no. 7 by registered letter dated 21/08/2024. Applicants have not filed a copy of acknowledgment of receipt of the said letter. Thus, delivery of the registered post can be presumed only after 30 days. It is not out of place to mention here that Respondent no. 7 was transferred immediately thereafter. However, Collector, Bhind, did not issue any instruction either to Respondent no. 7 or his successor to immediately carry out the compliance of



order dated 14/08/2024 and the successor of Respondent no. 7 passed the order dated 28/11/2025, i.e., when the notices of Contempt Petition were issued. This lethargic attitude of Collector, Bhind is not appreciable and he should have ensured the compliance of order dated 14/08/2024, but as Collector, Bhind has not been impleaded as a party, therefore, this Court is refraining itself from making any further observation. Thus, respondent no. 7 is hereby exonerated from present proceedings.

25. Accordingly, counsel for parties were heard on the question of punishment.

**Respondent no. 1:**

26. It is submitted by counsel for Respondent No. 1 that Respondent No. 1 is suffering from heart ailment and renal diseases and is regularly undergoing medical treatment, and in fact, property in dispute was sold in order to meet out medical expenses. Accordingly, it is submitted that a liberal view may be adopted while ascertaining the question of punishment *qua* Respondent No. 1.

27. *Per contra*, it is submitted by counsel for applicants that submissions made by counsel for Respondent No. 1 are false even to his knowledge, but could not point out anything to show that the medical documents, which have been filed by Respondent No. 1, are not correct. Therefore, for the purposes of this application, it is held that Respondent No. 1 is suffering from medical ailment and he might be in need of money to meet out his medical expenses.

28. Now, the only question for consideration is as to whether the conduct of Respondent No. 1 in alienating the property in spite of the injunction order obtained by himself was *bona fide* as claimed by him or not?

29. It is clear from the decree that five survey numbers, i.e., 663, 665, 667,



669, and 1170, and the lands mentioned in Schedule 1 were not made part of the decree. Therefore, it is clear that multiple lands including five survey numbers were not the disputed property, and Respondent No. 1 could have alienated a piece of land out of those undisputed multiple lands including five survey numbers, but he deliberately saved the undisputed land and disposed of the disputed land. Therefore, although Respondent No. 1 might be in need of money, but his intention to alienate the disputed property by saving his undisputed property speaks in volumes about his dishonest intention.

30. Faced with such a situation, Shri R.P. Singh Advocate, who is one of the co-sharer/cousin brother respondent no.1 as well as his Counsel also and Shri Pratip Visoria, Advocate, submitted that the respondent no.1 may not be sent to civil jail and properties may be attached.

31. Order XXXIX Rule 2A CPC reads as under:

**"2A. Consequence of disobedience or breach of injunction.** (1) In the case of disobedience of any injunction granted or other order made under rule 1 or rule 2 or breach of any of the terms on which the injunction was granted or the order made, the Court granting the injunction or making the order, or any Court to which the suit or proceeding is transferred, may order the property of the person guilty of such disobedience or breach to be attached, and may also order such person to be detained in the civil prison for a term not exceeding three months, unless in the meantime the Court directs his release.

(2) No attachment made under this rule shall remain in force for more than one year, at the end of which time, if the disobedience or breach continues, the property attached may be sold and out of the proceeds, the Court may award such compensation as it thinks fit to the injured party and shall pay the balance, if any, to the party entitled thereto."

32. Accordingly, counsel for Respondent Nos. 1 and 2 was requested to point out as to whether this Court has power to attach the entire property of wrongdoer or only the disputed properties can be attached.

33. It was fairly conceded by Shri R.P. Singh and Shri Pratip Visoriya,



Advocates that this Court can attach the entire property of the wrongdoer. However, it was also submitted that this Court may attach the disputed property only.

34. Considered the submissions made by counsel for Respondent Nos. 1 and 2.

35. This Court has already considered the conduct of Respondent No. 1 in disposing of the disputed property by saving his undisputed property, and this Court has also considered the conduct of Respondent No. 1 in making a deliberate attempt to avoid the service of notice. Furthermore, the respondent no. 1 has already handed over the possession of Survey No. 80 to respondent no. 3. Therefore, the discretion which was pleaded by counsel for Respondent No. 1, that this Court may attach the disputed property only is not a *bona fide* submission because if only survey no. 80 is attached, then only Respondent No. 3 would suffer the consequences of such attachment and Respondent no.1 would go scot free, therefore, the suggestion given by Shri R.P. Singh - Advocate and Shri Pratip Visoria - Advocate is not *bona fide* but is another attempt to go scot free in spite of the fact that in fact Respondent no.1 appears to be the mastermind.

36. Sentencing policy is for deterrence and not for saving the unscrupulous persons who have no respect for the Court, specifically when one of them is a practicing advocate and his cousin brother Shri R.P. Singh, Advocate is practising in High Court, Gwalior bench. Therefore, submission made by counsel for Respondent Nos 1, that this Court, by exercising its jurisdiction, may attach only the disputed property, i.e., Survey No. 80 is hereby rejected.

37. Faced with such a situation, Shri R.P. Singh - Advocate, who is also a co-sharer and co-appellant, suggested that 50% of the properties mentioned in Schedules 2 and 3 of the plaint may be attached. He further submitted that



appellants of S.A. No. 1384/2023 are in possession of each and every inch of the property.

38. Considered the submissions made by Counsel for Respondent no.1.

39. Although on the face of arguments, initially it appeared to this Court that suggestion is worth consideration, but on deep scrutiny, it was found that this submission is also not *bona fide* and unworkable.

40. The properties mentioned in Schedules 2 and 3 of the plaint have not been partitioned in accordance with the decree which is in force. Furthermore, applicants also have 1/3rd share in the property. As no partition has taken place in accordance with decree and there is no stay on effect and operation of decree, it is impossible for this Court to find out that which piece of land and how much of land would go to the share of respondent no. 1. Even if the suggestion given by Shri R.P. Singh, Advocate, who himself is a co-sharer and co-appellant is accepted, still it is not possible for this Court to specifically point out that which survey number should be attached and which should not be. Furthermore, a specific question was put to Shri R.P. Singh and Shri Pratip Visoria, Advocate, that whether this Court can attach the entire property or not, and it was submitted by them that this Court can do so.

41. Therefore, it is held that the properties mentioned in Schedules 2 and 3 have to be attached, and it has to be handed over to the receiver so that he can carry out the agricultural activities and can deposit the amount in the Trial Court. Accordingly, the Collector, Bhind is appointed as Receiver of the properties mentioned in Schedules 2 and 3 of the plaint and to take over the possession of the same. The Collector, Bhind/Receiver is directed to submit his report within a period of 15 days from today, i.e., 31/03/2026 before the Principal Registrar of this Court along with the possession *panchnama*. The receiver is directed to get



the land cultivated through any agent appointed by him (but not the appellants of S.A. No. 1348/2023 or their agents) and shall deposit the profit earned out of the cultivation activities before the Trial Court, so that it can be disbursed to the successful party. This attachment shall remain in force for a period of one year or till further orders as may be passed. However, it is directed that before the expiry of one year, the receiver shall move an application before this Court for obtaining further orders. Schedules 2 and 3 of the plaint are made part of this order.

42. Receiver is also directed to maintain the details of expenses and income, and shall also submit the same after every six months before the Trial Court.

43. So far as sale deed executed by Respondent No. 1 in favour of Respondent No. 3 on 06/12/2023 in respect of Survey No. 80 is concerned, it is hereby declared as non-est. Respondent No. 1 is directed to return the sale consideration to respondent No. 3 by a cheque of his personal bank account within a period of one week from today. Respondent No. 1 is also directed to file copy of the cheque as well as copy of his bank account statement to show that the amount of sale consideration has been credited in the account of Respondent No. 3.

44. Let the needful be done by Respondent No. 1 within a period of one week from today, i.e., on or before 18/03/2026 and aforesaid documents be filed before the Principal Registrar of this Court by 23/03/2026.

45. It is made clear that if Respondent No. 1 fails to return the sale consideration amount or fails to file aforesaid documents before the Principal Registrar of this Court on or before 23/03/2026, then Principal Registrar shall also initiate proceedings for contempt against Respondent No. 1.



**Respondent no. 2:**

46. So far as Respondent No. 2 is concerned, he is also a co-appellant and he had also obtained an injunction order which was violated by him just within a period of one month from the date of injunction order. Although Respondent No. 1 has claimed that Respondent No. 1 had sold the property to meet out his medical expenses, but there is no such eventuality with Respondent No. 2. It is merely mentioned in the sale deed that the land is being sold to meet out the household expenses. There is nothing on record to suggest that what were the expenses which necessitated Respondent No. 2 to alienate the property. Under these circumstances, this Court is of considered opinion that no sympathetic view can be adopted in his favor by not awarding him civil jail sentence of three months. Since entire properties, as mentioned in Schedules 2 and 3 of the plaint, have already been attached, therefore, Respondent No.2 is awarded 3 months' civil prison.

47. Accordingly, **Respondent No. 2 is directed to surrender before the Trial Court on or before 18/03/2026** for serving civil imprisonment for a period of three months.

48. So far as sale deed executed by Respondent No. 2 in favour of Respondent No. 3 on 06/12/2023 in respect of Survey No. 79 is concerned, it is hereby declared as non-est. Respondent No. 2 is directed to return the sale consideration to respondent No. 3 by a cheque of his personal bank account within a period of one week from today. Respondent No. 2 is also directed to file copy of the cheque as well as copy of his bank account statement to show that the amount of sale consideration has been credited in the account of Respondent No. 3.



49. Let the needful be done by Respondent No. 2 within a period of one week from today, i.e., on or before 18/03/2026 and aforesaid documents be filed before the Principal Registrar of this Court by 23/03/2026 through Shri R.P. Singh - Advocate, who is not only counsel for respondent No. 2 but is also a cousin brother/co-sharer/co-appellant in Second Appeal No. 1348/2023.

50. It is made clear that if Respondent No. 2 fails to return the sale consideration amount or fails to file aforesaid documents before the Principal Registrar of this Court on or before 23/03/2026, then Principal Registrar shall also initiate proceedings for contempt against Respondent No. 2.

**Respondents no. 3 to 5**

51. So far as Respondent Nos. 3, 4, and 5 are concerned, it is submitted by Shri Chaurasia that none of them have any property which can be attached, and they have only one dwelling house. Under these circumstances, when this Court is not in a position to attach the properties of Respondent Nos. 3, 4, and 5, then no option is left but to send Respondent Nos. 3, 4, and 5 to civil jail.

52. Accordingly, Respondent Nos. 4 and 5 are sentenced for civil imprisonment for a period of three months, whereas Respondent No. 3, who is a lady, is sentenced for civil imprisonment for a period of one and half months. Respondent Nos. 3 to 5 are directed to surrender before the Trial Court on or before 18/03/2026.

**Direction to Collector, Bhind:**

53. Collector, Bhind is directed to ensure that name of Respondent No. 3 is deleted from the revenue records and to restore the *status quo ante*. Let the needful be done within a period of one month from today.

54. Collector, Bhind is also directed to submit his report before the



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Principal Registrar of this Court by 20/04/2026 with regard to execution of aforesaid direction.

55. With aforesaid observations, this MCC is finally **disposed of**.

**(G. S. AHLUWALIA)**  
**JUDGE**

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