

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

SECOND APPEAL NO. 651 OF 2012
WITH
CIVIL APPLICATION NO. 10971 OF 2012

Keru s/o. Shankar Shete and Ors.

**....Appellants.
(Ori. Defendants)**

Versus

Mahatma Phule Krushi Vidhyapeeth,
Central Camp, Rahuri

**....Respondent.
(Ori. Plaintiff)**

Mr. V.S. Bedre, Advocate for appellants.

CORAM : T.V. NALAWADE, J.
DATED : 27th October, 2015.

ORDER :

1. The appeal is filed to challenge the judgment and decree of Regular Civil Appeal No. 49/2003, which was pending in the Court of Principal District Judge, Ahmednagar. The first appellate Court has set aside the judgment and decree of Special Civil Suit No. 189/1983, which was filed by present respondent, Agricultural University for the relief of possession and the decree of possession is given in favour of University. The learned counsel for the appellant is heard.

2. The suit was filed in respect of agricultural lands which were acquired by the State Government for plaintiff,

Agricultural University. It is the case of plaintiff that the acquisition proceeding was complete and after delivery of award and taking over the possession, the defendants occupied the lands which were acquired and they are not ready to vacate the lands. It is contended that the possession of the defendants is unauthorized and the land is required for the use of the University.

3. The defendants filed written statement and contested the matter. They did not dispute that the lands were acquired, but they contended that the acquisition was illegal and proper procedure was not followed by Acquisition Officer. They also contended that compensation was not paid to them. They alternatively contended that around 800 Acres of land was acquired and that much portion was not required for University and they are entitled to keep the possession.

4. Issues were framed on the basis of aforesaid pleadings. The trial Court held that the award is *void-ab-initio* and dismissed the suit.

5. The first appellate Court has held that Civil Court has no jurisdiction and the acquisition was complete. By making

such observation, the decree of Civil Court is set aside and decree of possession is given in favour of University.

6. The learned counsel for original defendants submitted that in the year 1988 some lands were returned by the Government as they were not required. He submitted that similarly no steps were taken to hand over the present lands (Survey Nos. 43/B, 43/1D, 43/3B, 57/B and 64) of village Rahuri, Taluka Ahmednagar and so, there is no need to disturb the possession of the defendants. A copy of order made by the Government in that regard also came to be produced. It appears that some lands were returned, but the fact remains that Government did not make order in respect of the lands involved in the present matter. If the present lands were also not required for the use of University, the Government would have made similar order. It is up to the Court to decide as to whether the lands are required or not required for the use of Agricultural University. The acquisition was made for a particular purpose and the University was required to approach the Court as the owners are not cooperating even when the acquisition was completed. In this regard, the first appellate Court has referred the case reported as **AIR 1996 Supreme Court 523 [Laxmi Chand & Ors. Vs. Grampanchayat, Kararia & Ors.]**. In this

case, the Apex Court has laid down that the scheme of the Land Acquisition Act is complete in itself and it ignored the jurisdiction of civil Court by necessary implication. It is laid down that the Civil Court has no jurisdiction to give declaration on the validity or invalidity of the procedure and if there is some grievance, the aggrieved can approach to Constitutional Court. It is further laid down that when the matter comes before the Constitutional Court under Articles 226 or 136 of Constitution of India (before High Court or Supreme Court), these Courts have self-imposed restrictions on the exercise of their extraordinary power.

7. There cannot be dispute over the aforesaid proposition. It is a fact that the land admeasuring 800 Acres was acquired for the plaintiff University. The acquisition was not challenged in any way before the appropriate Court. Acquisition was complete and entries were made in the revenue record also. The name of the plaintiff University is mentioned in 7/12 extract in occupancy column and that fact is sufficient to show that the possession was handed over to University. As acquisition was completed, no right was left with the previous owners and so, they cannot say that they are entitled to keep the possession as compensation is not paid. There is the record to show that revenue authority had taken steps for handing over the

possession and accordingly, entries were made in the revenue record. The grievance of not collecting compensation amount cannot be considered by the Civil Court. No other defence was taken by the defendants and so, the trial Court had committed grave error in refusing the relief. The first appellate Court has corrected that error. No substantial question of law as such can be formulated in the present matter.

8. In the result, the appeal stands dismissed. Civil Application stands disposed of.

[T.V. NALAWADE, J.]

ssc/