

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**Second Appeal No. 677 of 2010
With
Civil Application No.10925 of 2010
With
Civil Application No.11601 of 2014**

The State of Maharashtra
Through Collector, Jalna & Others. .. **Appellants.**

Versus

Prerna Cooperative Housing Society
Ltd. Jalna. .. **Respondent.**

Shri. S.P. Sonpawale, Assistant Government Pleader, for
appellants.

Shri. K.J. Suryawanshi, Advocate, for respondent.

With

**Second Appeal No. 678 of 2010
With
Civil Application No.10921 of 2010
With
Civil Application No.11600 of 2014**

The State of Maharashtra
Through Collector, Jalna & Others. .. **Appellants.**

Versus

Bharat Ratna Dr. Babasaheb Ambedkar
Magaswargiya Grahnirman Sahakari
Sanstha Maryadit, Jalna. .. **Respondent.**

Shri. S.P. Sonpawale, Assistant Government Pleader, for appellants.

Shri. K.J. Suryawanshi, Advocate, for respondent.

CORAM: T.V. NALAWADE, J.

DATE : 14th JUNE 2016.

ORDER:

1) Heard both the sides. Seen the record of the judgments delivered by the Courts below. Seen the record produced in the present appeals also. It appears that the suit was filed for relief of injunction by present respondents, two societies like Prerna Cooperating Housing Society and Bharat Ratna Dr. Babasaheb Ambedkar Magaswargiya Cooperative Housing Society against the Government and the jail authority to protect their possession which according to them was in accordance with the allotment made by the authority for housing societies. Both the sides are not disputing the fact of making allotment of some portions to the original plaintiffs. Allotment of 30 hectares of land was in favour of the jail authority from Gat No.32 and the possession of the land also was handed over to jail authority. After that

area of 2 hectares 2 R was allotted to Prerna housing Society and area of 1 hectare was allotted to Bharat Ratna Dr. Babasaheb Ambedker Magaswargiya Cooperative Housing Society.

2) The Government filed written statement and contested the suit. It is the case of the Government that encroachment was made by both the societies on the land allotted to the jail authority. Measurements were made through T.I.L.R. even prior to filing of the suit and during pendency of the suit. Encroachment was ascertained. It appears that during pendency of the present proceeding 99 R portion, encroached portion which was in possession of Prerna Housing Society was handed over to the defendant - Government. Similarly 3 R portion was handed over by the Bharat Ratna Dr. Babasaheb Ambedker Magaswargiya Cooperative Housing Society to the Government. Accordingly record was prepared and the map prepared after handing over of the possession is shown to this Court by the learned Assistant Government Pleader. In view of these circumstances, it can be said that the dispute of the nature mentioned in the pleadings of

the plaint and the written statement, was attempted to be put to an end.

3) Learned Assistant Government Pleader submitted that there is grievance of the jail authority that the proposed construction of the societies will be in breach of the provisions made for the security of the jail. He also submitted that the construction was not made in time as per the conditions given in the letter of allotment. The learned counsel for the plaintiffs submitted that the order of cancellation of aforesaid allotment was made by the Government but as such order was made when there was order of status quo, contempt proceedings were filed and the orders of cancellation were withdrawn by the Government.

4) There are aforesaid circumstances. Considering the grievances of the jail authority and the case of the Government this Court is observing that whatever action permissible in law still can be taken by the Government and order of injunction will be there only to protect the possession so long as the legal action is not taken by the Government.

5) As the encroached portion is returned back nothing survives in the two appeals. In the result, both the appeals are disposed of. Civil Applications stand disposed of.

Sd/-
(T.V. NALAWADE, J.)

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