

JPP

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION***

***SECOND APPEAL NO. 262 OF 2014
with
CIVIL APPLICATION NO. 370 OF 2002***

Smt. Aminabibi Abdul Kadir Patel & Arnr. ... Appellants.

V/s.

Kalya Krishna Thakur and Ors. ... Respondents.

Mr. C.G. Gavnekar for the Appellants/Applicants.

Mr. S.S. Patwardhan for Respondents 1A to 1D and 2A.

Mr. Drupad Patil for Respondent 5.

Mr. Vijay Gharat for Respondents 6 & 7.

CORAM : N.M. JAMDAR, J.

DATE : 7 APRIL, 2016.

P.C. :-

The Appellants challenge the concurrent findings and orders passed by the District Judge, Raigad and the Civil Judge, Junior Division, Panvel decreeing the Suit filed by the Respondent – Plaintiff in respect of the respective shares of the parties in compensation to be received from acquisition of the suit land and dismissing the Appeal filed by the Appellants.

2. The learned Counsel for the Appellants submitted that the dispute as to apportionment as sought to be agitated by the

Respondent – Plaintiff has to be first moved before the Collector under Section 30 of the Land Acquisition Act and the Civil Court will not have jurisdiction. He submitted that during the pendency of the suit, an Award has been declared and therefore, provisions of Land Acquisition Act are applicable.

3. The learned Counsel for the Respondent – Plaintiff points out that the objection regarding jurisdiction is not taken by the Appellant but some other Defendants. Even otherwise, in view of the decision of the learned Single Judge of this Court in the case of *Devalibai Nandalya Gavit and Ors v/s. Honji Rama Vasawe and Ors.* reported in 2011(6) *Mh.L.J.* 360, the contention raised by the Appellants cannot be accepted. The learned Single Judge has interpreted Section 30 of the Land Acquisition Act and has held that the party has a option as to approach the Civil Court or the Collector and the Collector does not have power to adjudicate upon title of the parties. The learned Single Judge has followed decision of the Apex Court in the case of *Dr. G.H. Grant v/s. The State of Bihar* reported in *AIR 1966 SC 237*.

4. In the circumstances, the contentions raised by the Appellants cannot be accepted. No other argument was advanced. The Second Appeal is dismissed. Civil Application is accordingly disposed of

(N.M. JAMDAR, J.)