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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.1216 OF 2005

WITH
CIVIL APPLICATION OF 1282 OF 1999
IN
SECOND APPEAL NO.1216 OF 2005

The Municipal Corporation of Gr.Mumbai & Ors. ...Appellants
V/s.
Mekobad D. Doongriwala & Anr. ...Respondents

Mr.Ram Apte, Senior Counsel with Mr.P.G. Lad and Ms.M. Bhoir i/b
Mr.A.H. Chheda for the Appellants.

Dr.Birendra Saraf with Mr.Rohan Sawant and Ms.Dhawani Bokaria
i/b M/s.Purnanand & Co. for the Respondents.

CORAM : R.D. DHANUKA, J.
DATE : 21ST MARCH, 2018.

P.C. :-

1. Not on board. The matter is taken on board by consent of parties.
2. By an order dated 7th July, 2014 passed in this second appeal filed by the Municipal Corporation, Mumbai, impugning the decree passed by the first Appellate Court, the parties had agreed to refer the dispute in relation to compensation to the learned arbitrator. The respondents have agreed before this Court that their land can be

acquired by the Municipal Corporation. The dispute which was referred to arbitration was relating to determination of compensation as per market value payable to the respondents. Learned arbitrator has rendered an award which was subject matter of Arbitration Petition No.846 of 2016. By a separate order and judgment rendered by this Court today, the said arbitral award has been set aside. This Court has also made clear in the said order that the respondents would be at liberty to invoke the arbitration agreement again.

3. In my view, in view of adjudication of the rights and obligation of the parties, if any, under the provisions of the Arbitration and Conciliation Act, 1996, the parties cannot re-open the issues which were agitated by the parties in the second appeal and more particularly challenge to the decree passed by two Courts below in favour of the respondents. Both the Courts had decided in favour of the respondents thereby directing the appellants to hand over vacant and peaceful possession of the land to the respondents. Since the parties agreed that the land of the respondents would be acquired by the appellants and had referred the disputes pertaining to the compensation payable in view of such acquisition to the respondents, in my view, nothing survives in this second appeal. The order passed by the two Courts below had been substituted by the order passed by this Court on 7th July, 2014.

4. The second appeal is accordingly disposed of in aforesaid terms. No order as to costs.

5. In view of disposal of the second appeal, Civil Application No.1282 of 1999 does not survive and is accordingly disposed of.

(R.D. DHANUKA, J.)