

JPP

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

***SECOND APPEAL NO. 51 OF 2016
with
CIVIL APPLICATION NO. 79 OF 2016***

Sanjay Rajaram Shelar and Ors. ...Appellants/Applicants.

V/s.

The Pune District Collector & Ors. ... Respondents.

Mr. Umesh Mankapure a/w. Rajesh Naik for the
Appellants/Applicants.

None for the Respondents.

CORAM : N.M. Jamdar, J.

DATE : 8 January, 2018.

Oral Order :-

Heard the learned Counsel for the Appellants.

2. The Appellants are aggrieved by the concurrent judgments and orders passed by the learned Civil Judge, Senior Division, Pune dated 13 March 2008 and the learned District Judge, Pune dated 25 June 2015.

3. The Appellants filed a Regular Civil Suit No. 235 of 2005 seeking relief of declaration and injunction. It is the case of the Appellants that the Appellants are the residents of gram panchayat New Kopre, Taluka – Haveli, District – Pune and their land was acquired and the Appellants are the project affected person. According to the Appellants, the Appellants were entitled to certain benefits as a Project Affected Persons and the scheme was to be implemented through Respondent No.3 – a developer. Both the Courts held against the Appellants on the ground that the Appellants failed to prove that the Appellants are the project affected persons.

4. The learned Counsel for the Appellants submitted that an Award was passed in favour of the Appellants. He submitted that since lands of the Appellants have been acquired, the benefits as project affected persons must be extended to them. This point was urged before both the Courts. Both the Courts have noted that merely because the Appellants land was acquired, it did not automatically establish the fact that the Appellants were the project affected persons. The learned Counsel for the Appellants has shown an extract from the Award during the course of the arguments. The Award only refers to the acquisition under the Land Acquisition Act. There is no document whatsoever to show that the acquisition was in respect of a project or that the Appellants were project affected. In

both the Courts, the Appellants have failed to produce the material evidence.. In absence of such primary evidence, it cannot be said that the view taken by both the Courts, is erroneous. No question of law arises. The Second Appeal is dismissed. The Civil Application stands disposed of.

(N.M. Jamdar, J.)