

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

SECOND APPEAL NO.805 OF 2017

WITH

CIVIL APPLICATION NO.15503 OF 2017

- 1 Smt. Vaishali wd/o Prashant Sant,
Age 32 yrs., Occ. Household,
- 2 Kum. Shrawni d/o Prashant Sant,
Age – Minor, Occ. Education,
Through her natural guardian mother
(appellant No.1)

Both are r/o Plot No.10-A, N-9,
B-Sector, Yashwant Housing Society,
Aurangabad.

... Appellants

... **Versus** ...

- 1 Prakash Damodharrao Sant,
Age 69 yrs., Occ. Retired,
- 2 Janabai Prakashrao Sant,
Age 69 yrs., Occ. Household,
Both are R/o Plot No.10-A, N-9,
B-Sector, Yashwant Housing Society,
Aurangabad.

... Respondents

...

Mr. P.S. Shendurnikar, Advocate for appellants

Mr. N.D. Sonawane, Advocate for respondent Nos.1 and 2

...

WITH
WRIT PETITION NO.1518 OF 2018

- 1 Smt. Vaishali wd/o Prashant Sant,
Age 32 yrs., Occ. Household,
- 2 Kum. Shrawni d/o Prashant Sant,
Age – Minor, Occ. Education,
Through her natural guardian mother
(appellant No.1)

Both are r/o Plot No.10-A, N-9,
B-Sector, Yashwant Housing Society,
Aurangabad.

... **Appellants**

... **Versus** ...

- 1 The Sub Divisional Officer
@ Land Acquisition Officer,
Aurangabad.
- 2 Prakash Damodharrao Sant,
Age 69 yrs., Occ. Retired,
R/o Plot No.10-A, N-9,
B-Sector, Yashwant Housing Society,
Aurangabad.

... **Respondents**

...

Mr. P.S. Shendurnikar, Advocate for petitioners

Mr. A.M. Phule, AGP for the respondent No.1/State

Mr. N.D. Sonawane, Advocate for the respondent No.2

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CORAM : SMT. VIBHA KANKANWADI, J.

RESERVED ON : 29th JUNE, 2021.

PRONOUNCED ON : 03rd JULY, 2021.

JUDGMENT :

1 The Second Appeal is filed by original defendants-respondents after being aggrieved and dissatisfied with the Judgment and Decree dated 01.10.2016 passed by District Judge-4, Aurangabad, thereby allowing the Regular Civil Appeal No.16/2015 filed by the respondents reversing the Judgment and Decree dated 09.12.2014 passed by the learned Civil Judge Junior Division, Aurangabad in Regular Civil Suit No.1170/2012. The Second Appeal is pending for admission, however, the Writ Petition No.1518 of 2018 has also been filed and it is between parties challenging the Judgment and Decree dated 01.01.2018 passed by learned Civil Judge Senior Division, Aurangabad, thereby allowing application Exh.21 filed by the respondent No.2 therein and permitting him to withdraw the entire amount of compensation, deposited by the Land Acquisition Officer, ex parte, without hearing the petitioners. Both the matters are kept together.

2 In Writ Petition No.1518 of 2018 Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

3 Now, the parties have arrived at compromise and the terms are filed on record on 30.01.2021. The terms got verified by the learned Registrar (Judicial), who has filed his report on 30.01.2021. He has confirmed the identification of the parties and their signatures. However, in his report he has stated that the parties have impleaded certain properties more, which was not subject-matter of the appeal and those are included in the compromise for the first time. It appears that the appellants have relinquished their right, title and interest in those properties, which are not subject-matter of the appeal, and then he has given opinion that since there is relinquishment of right, title and interest in this compromise terms, it is required to be registered as per the provisions of Section 17 of the Indian Registration Act.

4 Both the learned Advocates appearing for the parties agreed to the said legal position. Both the parties have come to a compromise, and therefore, there is no hurdle in accepting those compromise terms. Therefore, in view of the said compromise terms entered into by the parties on 30.01.2020 in the Second Appeal, the Second Appeal stands disposed of.

5 The Judgment and Decree passed on 01.10.2016 by learned District Judge-4, Aurangabad in Regular Civil Appeal No.16/2015 and the Judgment and Decree passed on 09.12.2014 by learned Civil Judge Junior

Division, Aurangabad in Regular Civil Suit No.1170/2012 stand set aside.

6 The said civil suit i.e. Regular Civil Suit No.1170/2012 stands decreed in terms of the compromise dated 30.01.2021.

7 Copy of the compromise decree, so drawn in this appeal, be sent to the Sub-Registrar, Aurangabad having jurisdiction over the lands mentioned in the compromise decree.

8 The learned Sub-Registrar, Aurangabad to consider, whether the decree deserves registration and payment of stamp duty, in view of the relevant provisions of the Indian Registration Act and/or Maharashtra Registration Act, 2013.

9 Civil Application No.15503 of 2017 stands disposed of.

10 The Writ Petition No.1518 of 2018 also stands disposed of in terms of the said compromise.

11 In Writ Petition No.1518 of 2018 Rule is made absolute in terms of the same.

12 Further, parties are allowed to withdraw the compensation amount with interest deposited in Land Acquisition Reference No.240/2013, pending before 7th Joint Civil Judge Senior Division, Aurangabad, as per the

compromise and the proceedings of Land Acquisition Reference No.240/2013 would stand disposed of accordingly.

13 Decree be drawn in the Second Appeal No.805 of 2017 accordingly.

(Smt. Vibha Kankanwadi, J.)

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