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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8449 OF 2021

Smt. Majidunnisa Abdul Rauf Khan & ...Petitioners
Others

Versus

The State of Maharashtra & Others ...Respondents

Mr. Shrinivas Bobde, i/b Ms. Deepali Kedar, for the
Petitioners.

Mr. V.S. Gokhale, 'B' Panel Counsel, for Respondents Nos. 1 to
3-State.

CORAM: Smt. Bharati Dangre, J.

DATED: 3rd December 2021

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Heard.

2. The present Petition is filed by the Petitioners who are
Plaintiffs who instituted Special Civil Suit No. 3024 of 2006

seeking a declaration to the effect that the Award dated 16.09.1975 passed by the Special Land Acquisition Officer (6), Mumbai and Mumbai Suburban District has become null and void. The aforesaid relief is sought in view of the provisions of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 on the ground that the said proceedings have lapsed.

2. In the said suit, the Collector as well as the Special Land Acquisition Officer are impleaded as Defendants.

3. During the pendency of the said suit, a chamber summons is taken out by the MMRDA, seeking impleadment in the suit, with specific pleadings to the effect that the Applicant-MMRDA was allotted various parcels of land in Bandra Kurla Complex by the Government of Maharashtra and the possession was also made over to it by the Revenue Authority, also various parcels of land bearing various CTS numbers were also measured by MMRDA from CTSO, Bandra

under M.R. No. 271/12 and were subdivided.

4. In the aforesaid context and also giving reference to the earlier special civil suit which was filed, being S.C. Suit No. 2116 of 2012, the impleadment is sought on the ground that if it is declined irreparable loss will be caused, in view of the interest of the MMRDA in the property involved in the suit.

This chamber summons is allowed by the City Civil Court under the impugned order dated 15.02.2020, resultantly this Petition.

5. The learned Counsel for the Petitioners would vehemently submit that the MMRDA should not have been impleaded as a Respondent/Defendant, since the Collector and the Land Acquisition Officer were already parties to the suit and relying upon the decision in the case of ***Santosh Kumar & Others v Central Warehousing Corporation & Anr*** reported in ***(1986) 2 SCC 343***, the proposition enunciated is to the effect that even though Collector make an order and he acted as an agent of the Government, and the

legal character of the award made by the Collector is that of a tender or offer by him on behalf of the Government, if such is a proposition, any other agency cannot bring any claim may be on the ground that the award is suffering from any fraud, corruption or collusion. The principles laid down in the aforesaid judgment, may be a well settled principle of law, but here is a case where during the pendency of the suit, the interest has accrued to the MMRDA and it is seeking its impleadment to protect its interest. In any case the plaintiff had at an earlier point in time instituted a suit against MMRDA and had obtained order in his favour.

6. In the wake of the aforesaid, the impugned order that allowed the chamber summons, on the assertion of the MMRDA that it is the owner of the suit property and since the Plaintiffs are claiming a declaration that they are the owners of the suit property, their impleadment is very much necessary, in the capacity as a 'necessary party'.

7. The impugned order, therefore, do not suffer from any

illegality. There is no merit in the Petition.

8. The Petition is dismissed.

(Smt. Bharati Dangre, J.)