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

WRIT PETITION NO. 4521 OF 2019

SOU. MADHURIMA ADESH CHAVAN & ORS. ..PETITIONERS
vs.

LATE SHIVA RAU PATIL (SINCE DECEASED)
THROUGH HIS LRS & ORS. ..RESPONDENTS

Mr. Prashant Bhavake for the petitioners.
Mr. V.B. Rajure for the respondents.

CORAM : M.S.KARNIK, J.

DATE : JANUARY 22, 2021

P.C.:-

Heard learned counsel for the parties.

2. The order impugned in this Petition under Article 227 of the Constitution of India is an order passed by the Additional Commissioner, Pune. I have gone through the impugned order passed by the Additional Commissioner, Pune, which has confirmed the order dated 30th July, 2016 passed by the Sub-Divisional Officer, Karveer.

3. Briefly stated, the petitioners had purchased a fragment from the first owner. Such a purchase is prohibited under Section 7 of the The Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947 (hereinafter referred to as

'the said Act' for short). The record clearly reveals that what was sold was a fragment and therefore the transfer was clearly prohibited by Section 7 of the said Act. That being the position the order passed by the Additional Commissioner, Division Pune, cannot be faulted and I do not find any error of jurisdiction or perversity with the order so as to warrant any interference.

4. Learned counsel for the petitioners then submits that in view of the amendment to Section 9 of the said Act as pursuant to the amendment a proviso and explanation has been inserted after sub-section (3), the petitioners are entitled to regularise the transfer. This aspect is not subject matter of this Petition. If the petitioners have a remedy to apply for regularisation, it is open for them to make such an application under the relevant provisions. If an application is made, such an application may be considered on its own merits and in accordance with law. I may not be understood to have expressed any opinion in so far as this aspect is concerned and it is open for concerned authority to decide such application if made on its own merits and in accordance with law.

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Rane

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5. With these observations, the Petition is dismissed.

(M.S.KARNIK, J.)