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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1344 OF 2019

Dyanoba Sopan Wakadkar and Ors

....Petitioners

V/s.

Datta Keshav Sarde

.....Respondent

Mr. Harshad Inamdar i/b Mr. Yogesh Dandekar for the Petitioners

CORAM : NITIN W. SAMBRE, J.

DATE: FEBRUARY 12, 2021.

P.C.:

1] In a Suit for declaration wherein Respondent claimed to be Karta and Manager of the property, Petitioner-Defendant moved an Application under Section 9 & 9A of the Code of Civil Procedure, 1908 claiming that Suit is barred by territorial so also pecuniary jurisdiction.

2] Said Application Exh. 19 came to be rejected on 26/07/2018.
As such, this Petition.

3] The submissions of learned counsel for the Petitioner are, defence is set up by the Petitioner that Suit property was received by under Section 32G of Bombay Tenancy and Agricultural Lands Act, 1948 (Hereinafter referred to as 'the Act' for the sake of brevity). Hence became deemed purchasers of the Suit property by virtue of consideration deposited with the Government. A certificate under Section 32M of the Act is already issued. In the aforesaid background, the contentions are, Suit itself is not maintainable as the property is governed by provisions of the Act.

4] It is further contended that market value of the suit property is almost more than 75 Crore and that being so, suit is undervalued.

5] The aforesaid contentions raised by the Petitioner-Defendant are duly considered by the Trial Court and has observed that there is a separate forum provided for considering the grievance in the matter of dispute arising out of the Act. The Trial Court then noticed that said declaration claimed in Suit cannot be claimed in the proceedings

under the provisions of the Act and that being so, subject matter of the Suit is not within the domain of the provisions of the Act. That being so, court below has rightly rejected the prayer of the Petitioner.

6] Apart from above, as far as defence raised by the Petitioner about purchase of the property under the said Act is concerned, same cannot be gone into and appreciated at this stage of the proceedings. That being so, no case for interference is made out.

7] Petition fails, stands dismissed.

[NITIN W. SAMBRE, J.]