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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 207 OF 2021

BAPUSO VITTHAL MANE

....APPLICANT

V/s.

RAMCHANDRA DEV (TRUST), THR
TRUSTEES, SHRI. YOGESH VIJAY
DESHPANDE

....RESPONDENTS

Mr. Pritam S. Nigade, Advocate for the Applicant.

Mr. Ojas Deolankar, Advocate for Respondents.

CORAM : NITIN W. SAMBRE, J.

DATE: MARCH 16, 2022.

P.C.:

- 1) A Public Trust initiated Suit being R.C.S. No. 255/2020 on the file of Civil Judge Senior Division, Baramati seeking injunction not to disburse amount of compensation.
- 2) Claim in the Suit was objected by the Applicant-Defendant nos. 2 to 7 vide Application Exh. 17 alleging that Suit is barred by law, Suit is under valued, bundle of facts does not disclose cause of action and as such, sought rejection of Plaint. Such prayer is rejected vide impugned order dated 18/09/2021. As such, this Petition.
- 3) Submissions of learned counsel for the Applicant are,

ownership under The Bombay Tenancy and Agricultural Lands Act, 1948 (Hereinafter referred to as 'BT & AL Act' for the sake of brevity) under the provisions of Section 32-M is already concluded in favour of petitioner which has attained finality. Apart from above, he would claim that since the issue is about apportionment of amount of compensation of 7 Crores, the Court fee ought to have been paid on valuation of the Suit claim based on same. Learned counsel for the Applicant as such would urge that Court below has failed to consider the same while passing the order impugned.

4) Counsel for Respondent would oppose the claim and supports the impugned order.

5) It appears that originally, the land was Devsthan Inam land allotted in favour of Plaintiff, a religious Public Trust. Said land remained in Vahivat of Dattatraya Deshpande, who have inducted present Applicant as tenant.

6) Proceedings taken out under Bombay Tenancy and Agriculture Land Act against said Vahivatdar Mr. Deshpande, 32-M certificate claimed to have been issued in favour of the Applicant. Admittedly, Plaintiff to the present Suit was not party to the said proceedings

initiated under BT & AL Act. As such, ownership claimed under said Act will not bind Respondent/Plaintiff.

7) In that view of the matter, it cannot be said that proceedings in favour of the Applicant will operate as *res-judicata* or Suit in question in view of declaration of ownership by the Tribunal under BT and AL Act in favour of the Applicant.

8) The contention that claim in the Suit is undervalued also does not hold any substance as Suit is under Section 32 and 34 of Specific Relief Act for injunction and declaration. It is not the case of the Respondent-Plaintiff that Plaintiff sought disbursement of amount of compensation which was deposited towards acquisition of the Suit land. What is sought by the Respondent-Plaintiff is, not to disburse the amount in favour of the Respondent. In that view of the matter, considering the nature of relief claimed, it cannot be said that suit claim is under valued.

9) In that view of the matter, no illegality or material irregularity is noticed in the order impugned. Application as such fails, stands dismissed.

[NITIN W. SAMBRE, J.]