

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL REVISION APPLICATION NO.143 OF 2010

- | | |
|---|--------------------------------------|
| 1. The State of Maharashtra
Through Collector, Latur | |
| 2. The Sub-Divisional Officer,
Latur | |
| 3. The Principal, Police Prashikshan Kendra
Babhalgaon, Taluka and District Latur .. | Applicants
(Original Defendants) |
| Versus | |
| 1. Vishwambhar s/o. Limbaji Maske,
Age 70 years, Occu. Agri. | |
| 2. Sou. Vishrantbai w/o. Vishwambhar Maske,
Age 65 years, Occu. Household and Agri. | |
| Both R/o. Babhalgaon, Tq. and Dist. Latur .. | Respondents
(Original Plaintiffs) |

Mr. A. B. Chate, A.G.P. for Applicants;
Mr. T. M. Venjane, Advocate for Respondents

CORAM : S. G. MEHARE, J.

DATE : 14-09-2023

ORAL JUDGMENT :-

1. Heard the learned A.G.P. for the applicants and the learned counsel for the respondents.
2. The petitioners here were the defendants, and the respondents were the plaintiffs in the suit. The parties will be referred to by their original position.

3. The plaintiffs had filed suit for perpetual injunction about the remaining land of 36 Guntha out of Gat No.29. Gat No.29 was 4 Hector 6 Guntha, out of it under the joint measurement dated 30.01.2006, land 2 Hector 85 R. was acquired. However, the defendants attempted to stop their construction over the remaining portion of the land, which was not acquired.

4. Defendants No.1 to 3 had raised an objection as regards the jurisdiction of the Court and the issue of jurisdiction as a preliminary issue under Section 9-A of the Code of Civil Procedure, then in existence. Defendants No.1 to 3 relied on the provisions of Sections 4 and 5 of the Land Acquisition Act and objected to the jurisdiction of the Civil Court.

5. The learned A.P.P. for the defendants submitted that the learned Court did not consider that once the land is acquired, the owner ceased the title. The acquiring body gets the right to develop the acquired land for the purpose for which it was acquired. In the dispute about the rights of the acquired property, the jurisdiction of the Civil Court ceases. The provisions of the Land Acquisition Act have not been considered.

6. Per contra, the learned counsel for the plaintiffs submits that they never impugned the acquisition proceeding. The suit was about the remaining portion of the land, out of the land which was acquired. The suit was only for the perpetual injunction.

7. The averments in the plaint are the best source to determine the jurisdiction of the Court. The suit was for protecting the remaining land of 36 R. out of Gat No.29. Since the issue did not touch the acquisition proceedings, the learned Civil Judge correctly observed that the subject matter was not under the jurisdiction of the Land Acquisition authorities. Therefore, the suit was maintainable.

8. The Court did not find illegality committed by the learned Joint Civil Judge, Senior Division, Latur, in the impugned order. The present revision application is devoid of merits; hence, it stands dismissed.

9. R & P be returned to the Court of the learned Joint Civil Judge, Senior Division, Latur.

10. Rule stands discharged.

(S. G. MEHARE)
JUDGE

rrd