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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 366 OF 2018
WITH
CIVIL APPLICATION NO.348 OF 2018**

Miss Mangala Baburao GhadgeAppellant.
V/s
Vijay Prabhakar Jadhav Respondent.

Mr. I. M. Khairdi for the Appellant.
Mr. C.M. Lokesh i/b Suhas Inamdar for the Respondent.

CORAM: VINAY JOSHI, J.

DATE: SEPTEMBER 20, 2023

P.C.:-

1] This second appeal of original Defendant raises a challenge to the concurrent findings recorded by both the courts below, directing him to deliver possession of suit property. Initially, Respondent has filed a Special Civil Suit No.9 of 2014, seeking possession from trespasser. It was Plaintiff's case that he had purchased suit property in auction conducted by Recovery Officer of the Maharashtra State Cooperative Housing Finance Corporation Ltd. The suit property was owned by one Shantaram Surwase, who has raised finance of Co-operative Bank and had mortgaged the suit row house towards security. Since loan amount ran into arrears, Bank has obtained Recovery Certificate under Section 101(2) of the Maharashtra Co-operative Societies Act. Mortgaged property was put to auction, which was purchased by original Plaintiff on 21/06/2013.

2] It is Plaintiff's case that Defendant is no way concerned with the suit property but they are squatting over the property without authorization. It was Defendant's case that she was tenant of the original owner i.e. borrower. Parties led evidence before the Trial Court. It was noted that the Defendant was not in actual possession since last 20 years. There was neither electricity nor water connection in the row house. Defendant has not adduced any sort of evidence to show her tenancy. Trial Court has considered these aspects and held that Plaintiff has acquired ownership and Defendant is a trespasser. Defendant has also raised an objection to the maintainability of the suit for non-joinder of necessary parties viz original owner and Co-operative Society. Secondly, it has been submitted that statutory notice under the provisions of Co-operative Societies Act has not been issued. Basically, it is a suit by owner against trespasser which does not touches to the business of Co-operative Society. The property was purchased by the Plaintiff in auction. The original owner was not in possession thereof. Thus objection about maintainability is not tenable. Both the Courts below have categorically recorded finding about maintainability of the suit and Plaintiff's entitlement for possession. Concurrent finding of fact calls no interference.

3] No substantial question of law is involved in this appeal. Appeal stands dismissed. Pending Civil Application stands disposed of.

(VINAY JOSHI, J.)