

Arjun

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

**SECOND APPEAL (ST) NO.16082 OF 2022
WITH
INTERIM APPLICATION NO.30770 OF 2022
IN
SECOND APPEAL (ST) NO.16082 OF 2022**

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Ganpati Atmaram Patil & Ors.

...Appellants/
Applicants

V/s.

Collector of Kolhapur & Anr.

...Respondents

Mr. S. S. Borulkar i/b Gaurav Nankar, for the Appellants/
Applicants.

**CORAM : MADHAV J. JAMDAR, J.
DATED : AUGUST 9, 2023**

P.C.:

1. Heard Mr. Borulkar, learned counsel appearing for the
Appellants.

2. Mr. Borulkar, learned counsel states that the learned
Trial Court as well as the learned First Appellate Court has
dismissed the suit and appeal respectively on the ground
that the Civil Court has no jurisdiction to entertain the suit.
He states that the said finding is not legal and, therefore, the
Second Appeal is required to be admitted.

3. However, perusal of the judgment and decree passed by

the learned Trial Court shows that the suit was filed for possession and injunction. The factual position on record shows that the suit property was acquired by the Respondents for rehabilitation of the project affected persons of Doodhganga Project. Thereafter, the suit property was allotted to one Rajaram who is legal heir and representative of deceased Sadu Sakhu but he refused to accept the same. Therefore, the suit property is lying unused.

4. However, both the Courts have held that as the suit property has been acquired, the Civil Court will have no jurisdiction to entertain the suit. Therefore, there is no illegality or perversity in the impugned judgment and decree.

5. Therefore, the Second Appeal is dismissed, however, with no order as to costs.

6. In view of dismissal of the Second Appeal, nothing survives in the Interim Application and the same is also dismissed.

[MADHAV J. JAMDAR, J.]