



Harish

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.12759 OF 2023

IN

SECOND APPEAL NO. 43 OF 2013

Machindra Eknath Kalel

...Applicant

In the matter between

Ramprabhu Shrihari Dhembare & Anr.

...Appellants

Versus

Jai Tanaji Gend & Ors.

...Respondents

Mr. Dheeraj Patil i/b Drupad S. Patil for the Applicant.

Mr. Rushabh d. Phadei/b Mr. Surel s. Shah for the Appellants in SA.
& for the Respondent in IA.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : JANUARY 8, 2024

P. C. :

1. Interim Application has been preferred seeking permission to implead Respondent Nos. 16 and 17 in the present Second Appeal.
2. Learned counsel for the Applicant submits that the Second Appeal has been admitted by this Court on 15th February, 2013 and that there is proposed acquisition of the suit land in respect of which the Respondent No. 16 has issued notice dated 3rd August, 2022 and objections are

invited. He would further submit that the objections were raised by the Applicant stating that there is a dispute regarding the land which is proposed to be acquired and pending for consideration before this Court. He would submit that however, the Respondent Nos. 16 and 17 directed the Applicant to obtain necessary orders from this Court in the present Appeal.

3. *Per contra*, learned counsel for the Respondent submits that it is not necessary to implead the Respondent Nos. 16 to 18 as party inasmuch as it is only a proposed acquisition and the amount of compensation has not yet been awarded. He would further submit that impleading of the proposed Respondents would expand the scope of the Appeal

4. Considered the submissions and perused the record.

5. The Second Appeal has been filed in respect of suit property which is now proposed for acquisition by the Respondent Nos. 16 to 18. Although the acquisition at present is at stage of proposal, considering the dispute pending in the present appeal, the order of disbursement of acquisition amount, if any, will substantially affect the rights of the parties.

6. In that view of the matter, as regards the impleadment of Respondent Nos. 16 to 17, the same can be permitted at this stage. Interim Application is allowed in terms of prayer clause (b) which reads

thus:

(b) This Hon'ble Court be pleased to permit the Applicants to add or implead the Respondent No. 16 and 17 in Second Appeal No. 43 of 2013 and in pending Interim Applications if any and further be pleased to allow the Applicants to carry out the Amendment in the caused title of the Second Appeal No. 43 of 2013 and in all pending Interim Applications.

7. Liberty to the Applicants to revive prayer clause (d) as regards the disbursement of compensation, if required, later on.

(SHARMILA U. DESHMUKH, J.)