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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 855 OF 2017
WITH
CIVIL APPLICATION NO. 1760 OF 2017
IN
SECOND APPEAL NO. 855 OF 2017**

Mahadeo Narayan Patankar ... Appellant/Applicant

vs.

Zilla Punarvasan Aadhikari, Sangli ... Respondents
and Ors

Mr. Umesh Mankapure a/w. Bhavika Shinde, for Appellant.

CORAM : GAURI GODSE, J.

DATED : 29th JULY 2024

ORDER:

1. This appeal is preferred by the original plaintiff to challenge the concurrent judgments and decrees dismissing the appellant's suit for declaration and injunction.

2. Learned counsel for the appellant submits that the appellant's land was acquired in the public interest for a rehabilitation project at Mouje Bhakuchiwadi. Learned counsel submits that defendant nos. 1 and 2, on behalf of defendant no.3, implemented the said project for which the slab limit was fixed at 8 acres. He submitted that in

view of the partition between the plaintiff and defendant nos. 4 and 6 as recorded in the revenue record, the shares of the plaintiff and defendant were less than 8 acres, and hence, suit property could not have been acquired for the said project. Learned counsel for the appellant thus submits that the acquisition was illegal and that both the Courts have failed to consider the vital aspect regarding the suit property being below the fixed limits. He, therefore, submits that the Second Appeal would require consideration for the aforesaid questions of law.

3. I have considered the submissions made on behalf of the appellant. Perused the papers of the Second Appeal. The acquisition, as recorded by both the Courts, is not in dispute that the acquisition proceedings were initiated in the year 1990 based on the notification under section 4 of the Land Acquisition Act published on 7th August 1990. As per the findings recorded by both the Courts, notification was given wide publicity, and the notification was published on 28th September 1990. Though the appellant had an opportunity to raise an objection after the publication of the said notification, there was no grievance raised on behalf of the appellant. Pursuant to the said notification, further proceedings were initiated, and the award was passed on 28th August 1993, and

possession of the suit property was taken on 19th August 1994 by the Government. The acquisition proceedings and possession taken over were recorded in the revenue record by way of Mutation Entry No. 2736.

4. Both Courts have recorded the findings that after acquisition proceedings were completed and possession was taken over, the suit land vested in the Government. The suit land was distributed to the rehabilitation project beneficiaries, and the suit land was allotted to defendant nos. 7 to 11. The effect of allotting lands to the project beneficiaries is also recorded in the revenue record.

5. Thereafter, a suit was filed challenging acquisition proceedings on 3rd May 2002. In view of the vesting of the land in the State Government, the suit was dismissed as not maintainable. The First Appellate Court confirmed the findings recorded by the Trial Court. The First Appellate Court relied upon the well-settled principles of law with regard to the suit's maintainability to challenge the acquisition proceedings after the acquisition has attained finality and land has already vested in the State Government.

6. I do not find any illegality or perversity in the reasons recorded by both the Courts. The Second Appeal does not raise any

substantial question of law. Hence, the second appeal is dismissed.

7. In view of the dismissal of the Second Appeal, the pending Civil Application is also dismissed as infructuous.

(GAURI GODSE, J.)