

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

**SECOND APPEAL NO.263 OF 2022
WITH
INTERIM APPLICATION NO.111 OF 2024
WITH
INTERIM APPLICATION NO.116 OF 2024
WITH
INTERIM APPLICATION NO.112 OF 2024
WITH
INTERIM APPLICATION NO.114 OF 2024
WITH
INTERIM APPLICATION NO.113 OF 2024
WITH
INTERIM APPLICATION NO.115 OF 2024
IN**

SECOND APPEAL NO.263 OF 2022

Kailash Ganpat Ingale and Anr. . . .Appellants

Versus

The State of Maharashtra and Ors. ...Respondents

Mr. Nitin P. Deshpande *for the Appellants.*

Mr. Ashok S. Gawai, AGP *for the Respondents.*

CORAM : SANDEEP V. MARNE, J.

Dated : 2 April 2024.

P.C. :

1) By this appeal the Appellants challenge decree dated 20/10/2016 passed by the District Judge, Pune, dismissing the Civil Appeal No.370 of 2009 and confirming the decree dated 30/03/2009

passed by the learned 13th Joint Civil Judge, Senior Division, Pune in Regular Civil Suit No.1427 of 2003.

2) The Plaintiff filed Regular Civil Suit No.1427 of 2003 seeking declaration that the notice issued on 25/09/2003 for removal of encroachment under Section 50(1) of the Maharashtra Land Revenue Code, 1966 was unauthorised and illegal. It appears that the concerned land has been acquired by Award dated 30/04/1997 for the purpose of road widening. The Special Taluka Inspector of Land Records conducted measurement and provided list of persons in unauthorised occupations of structures coming in the land required for road widening, by letter dated 30/06/2001. In pursuance of the said list received from STILR, initial notice dated 25/09/2001 was issued to the Plaintiffs for removal of encroachment. However, since the Plaintiff failed to remove their structures from initial notice, impugned notice dated 25/09/2003 was issued. Both the Trial as well as the First Appellate Court have recorded concurrent findings of the fact that the structures of the Plaintiff are located in the acquired portion. Both the courts have also recorded findings of the fact that Plaintiff failed to prove that their structures were located on private land, which does not form part of the acquisition proceedings. Such finding of fact recorded by the Trial and the First Appellate Court cannot be disturbed in exercise of jurisdiction under Section 100 of the Civil Procedure Code. No substantial question of law is involved in the appeal.

3) The second appeal is accordingly disposed of.

- 4) All pending applications stand disposed of.

SANDEEP V. MARNE, J.