



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

SECOND APPEAL NO. 17 OF 2017
WITH CIVIL APPLICATION NO. 271 OF 2017 IN SA/17/2017
WITH CIVIL APPLICATION NO. 6676 OF 2025 IN SA/17/2017
SHAMRAO GOVINDRAO KOLI LRS SHESHRAO AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THR COLLECTOR LATUR
AND OTHERS

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Advocate for Appellants/Applicants : Mr. V. C. Patil Ashtekar.
AGP for Respondents-State : Mr. B. A. Shinde.
Advocate for Respondent Nos.4 to 6, 8, 9 : Mr. Tandale P. R.
Advocate for Respondent No.7 : Present In Person.

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CORAM : SHAILESH P. BRAHME, J.
DATE : 18.09.2025

FINAL ORDER :-

1. Heard respective parties.
2. Being aggrieved and dissatisfied by judgment and decree dated 04.10.2016 passed by Lower Appellate Court in Regular Civil Appeal No.136 of 2008 confirming judgment and decree dated 22.12.2008 in Regular Civil Suit No.725 of 1999, plaintiffs have preferred this second appeal.
3. Appellants and respondent Nos.3 to 10 have rival claims for compensation of part and parcel of survey No.7/1 measuring 17 Acre and 19 R. acquired by respondent no.2. Late Ramrao Govindrao Mule was owner of land Survey

No.7/1 who is survived by respondent Nos.3 to 10. He had proposed to sell area of 19 acre 25 Guntha of Survey No.7/1 for consideration of Rs.8,000/- in the year 1963 to the appellants. Appellants had paid the consideration and they were inducted in the suit land. The sale deed was not executed either by deceased Ramrao or respondent Nos.3 to 10 despite repeated demands. Appellants even received notice under Sections 9 and 10 of Land Acquisition Act. The land in possession of the appellants was sought to be acquired vide notification under Section 4 of the Act issued on 10.11.1966. Thereafter, award was passed on 22.01.1969 under Section 11 of the Act. Respondent Nos.3 to 10 had no title or interest in the suit land but they were offered the compensation which is cause to file Regular Civil Suit No.725 of 1999 for injunction and mandatory injunction.

4. Respondents contested the suit. Respondent Nos.3 to 10 denied theory of agreement to sell and any transfer of title. The private respondents claimed to be the owner and entitled to receive the compensation. It is contended that mutation entry No.145 was quashed by the revenue authorities disclosing names of the appellants. It is contended that after

passing of the award application under Section 28(A) was made by them for enhancement of the compensation.

5. Appellants examined three witnesses and respondents examined one witness. The suit was dismissed by the Trial Court. Appeal of the appellants was also dismissed.

6. Learned counsel Mr. Ashtekar for the appellants submits that appellants are owner and they were in possession of suit land since 1963 continuous. The agreement was produced and proved to be Exh.75 and various receipts of payments are compatible with the claim of appellants. It is submitted that the acquisition undertaken by respondent Nos.1 and 2 was not in accordance with law. It is submitted that the appellants are the interested persons and they are entitled to compensation.

7. Per contra, learned AGP supports impugned orders. Learned counsel Mr. Tandale also supports impugned judgments and orders. It is contended that agreement is not the conveyance to transfer any interest. Neither agreement nor parting of the possession is proved. It is submitted that on the basis of their possession, mutation entry No.145 recorded in favour of the appellants was quashed by the competent authority. No attempts are made by the appellants to challenge the orders passed by Acquisition Officer on 17.11.1999. At the

instance of the respondents, matter was settled in Lok-Nyayalaya on 04.10.1998.

8. I have considered rival submissions of the parties. Both Courts below recorded concurrent findings of facts that appellants failed to prove their ownership on the suit land which is acquired by respondent No.2. The record and proceeding do not disclose any written agreement to sell though it is claimed that Exh.75 is one such document.

9. No document of 1963 is produced on record by the appellants either registered or unregistered disclosing contract between the parties to sell the suit land. Appellants claim to have received possession. The receipts at Exh.Nos.92 and 93 are for the payment of earnest amount. Even if payment is proved, that is not sufficient to conclude transfer of title. Both Courts below have rightly concluded that title has not been transferred to the appellants.

10. Appellants claim to have received possession in 1963. Mere factum of possession is not sufficient to make out a case of entitlement to receive compensation. Mutation entry No.145 recording the name of the appellants is vulnerable. It was challenged before Sub Divisional Officer. By Order dated 24.06.1988, the entry was quashed which is further confirmed

by order dated 22.04.1991 by Additional Collector. The matter was carried to Additional Commissioner and it is pending. It can be safely concluded that the plea of possession of the appellants is not corroborated.

11. The appellants were issued notices under Sections 9 and 10 of the Land Acquisition Act and even panchnama was also conducted. Mere issuing of notices would not confer either title or confirm possession of the appellants. Trial Court dealt with that aspect of the matter rightly.

12. The notification under Section 4 was issued on 10.11.1966. Award was passed on 22.01.1969 disclosing name of the original owner. The appellants had filed application for referring the matter to the Civil Court. It was rejected vide order dated 17.11.1999. The order was not further challenged by the appellants, albeit they preferred to file civil suit. Respondent Nos.3 to 9 resorted to Section 28(A). Ultimately matter was settled in Lok Adalat on 04.10.1998. They are entitled to receive the compensation.

13. Appellants have miserably failed to show their title over the suit land. If it is presumed that agreement of sale executed in favour of their predecessor then it is incomprehensible as to why no suit for specific performance was ever filed. If they

claim to be the owner then what prevented them from challenging order dated 17.11.1999. Appellant Shamrao did not step into witness box. In that view of the matter, I do not find that any perversity or error of jurisdiction committed by Courts below.

14. The ground Nos.5, 6 and 10 cannot form substantial questions of law.

- (i) Second appeal is dismissed.
- (ii) No order as to costs.
- (iii) In view of disposal of second appeal, pending civil applications do not survive. Civil applications as such are disposed of.

(SHAILESH P. BRAHME, J.)

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vmk/-