



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

SECOND APPEAL NO. 598 OF 2015

MANIK VITHALRAO YEOTIKAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. Gaurav L. Deshpande h/f Mr. M. D. Narwadkar, Advocate for Appellants.

Mr. V. S. Badakh, AGP for Respondents-State.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 21st FEBRUARY, 2025.**

P.C.:-

1. The appellants are aggrieved by judgment and decree dated 04.08.2014 passed by District Judge-1, Biloli, Dist. Nanded in Regular Civil Appeal No.8/2012, thereby upholding judgment and decree dated 29.03.1996 passed by Civil Judge, Senior Division at Biloli in Special Civil Suit No.27/1994.

2. The land of appellants has been acquired for the purpose of construction of percolation tank. The Land Acquisition Officer passed award dated 21.10.1989. The possession of land was already taken on 22.03.1985. The interest for the said period was not granted by award of Land Acquisition Officer. Therefore, appellants filed Special Civil Suit No.27/1994 before Civil Judge, Senior Division at Biloli for recovery of rent amount of Rs.5,22,817/- inclusive of interest @ 16% from 24.01.1990 to 24.02.1996. The Trial Court dismissed the suit holding that Civil Court has no jurisdiction to grant relief as prayed, particularly in reference to the observation of the Supreme Court of India in case of *Laxmi Chand and Others Vs. Gram Panchayat, Kararia and Others*¹.

¹ AIR 1996 SC 523.

3. Aggrieved plaintiff filed Regular Civil Appeal No.8/2012 before the District Judge at Biloli. However, same has been dismissed upholding judgment of the Trial Court.

4. Mr. Deshpande, learned Advocate appearing for the appellants submits that appellants were bonafide prosecuting their remedy before the Civil Court. He concedes that remedy for recovery of rental compensation under the scheme of Government would be before the District Collector or Competent Authority under the scheme. He would, therefore, urge that appellants may be permitted to withdraw suit itself with liberty to file proceeding before Competent Authority for recovery of rental compensation.

5. It is apparent that, appellants have wrongly prosecuted their remedy before the Civil Court and in view of law laid down by Supreme Court in case of ***Laxmi Chand and Others*** (supra), they could have prosecuted their remedy before Competent Authority to claim benefit of rental compensation under the scheme of Government. Since the appellants are litigating for rental compensation for acquired land, the interest of justice requires that they be permitted to withdraw the proceedings in the suit as prayed, with liberty to prosecute the same before the competent authority. In that view of the matter, Second Appeal stands disposed of as under:

- a. The appellants are permitted to withdraw Special Civil Suit No.27/1994.
- b. The judgment and decree passed by the Trial Court as well as Appellate Court are quashed and set aside.

- c. The appellants shall be at liberty to prosecute their remedy before the Competent Authority. In case, appellants make appropriate application before Competent Authority within a period of three months from today, time consumed in prosecuting suit upto this Appeal shall be exempted in view of Section 14 of the Limitation Act.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/February-2025