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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 662 OF 2024
WITH
INTERIM APPLICATION NO 76 OF 2025
WITH
INTERIM APPLICATION NO 75 OF 2025
IN
APPEAL FROM ORDER NO. 662 OF 2024**

Bharti Bhimrao Havaladar and Ors ... Appellants/Applicants

vs.

Gajanan Ramu @ Ramchandra Choudhari ... Respondents
and Ors

Mr. N.J. Patil i/b. Mr. Akshay Patil for Appellants/Applicants.

Mr. Vijay Killedar for Respondents.

CORAM : GAURI GODSE, J.

DATED : 15th JANUARY 2025

ORDER:

1. Heard learned counsel for the parties. Learned counsel for the respondents raises a preliminary objection that the appeal from order would not be maintainable as the order is revisable. I do not find any substance in the objection. The impugned order is passed in the first appeal challenging the order passed by the trial court rejecting the plaint under Order VII Rule 11 of the Civil Procedure

Code, 1908 ('CPC'). Since, the rejection of plaint is a decree, the first appeal was filed by defendant nos. 4 to 6. The first appellate court has allowed the appeal and set aside the order rejecting the plaint. The first appellate court has remanded the matter to the trial court for fresh hearing. Hence, under clause (u) of Rule (1) of Order XLIII of CPC, the impugned order is appealable. Hence, the present appeal from order would be maintainable.

2. The appeal raises the following substantial questions of law. Hence admit.

I) In view of Section 63 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('**said Act of 2013**') whether the suit would be barred to be tried by the Civil Court?

II) In view of the pleadings of the plaintiff regarding acquisition initiated under the said Act of 2013, whether the trial court's order rejecting the plaint would be sustainable in law?

3. Mr. Killedar waives notice on behalf of the respondents.

4. Call for records and proceedings.

5. Printing is dispensed with.

6. Learned advocate for the appellants shall file private paper-book within a period of one year from today.

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7. Rule on interim relief in terms of prayer clause (a) is made returnable on 12th March 2025.

8. Mr. Killedar waives notice on behalf of the respondents.

9. Till next date, there will be ad interim stay in terms of prayer clause (b).

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10. Rule on interim relief in terms of prayer clause (a) is made returnable on 12th March 2025.

11. Mr. Killedar waives notice on behalf of the respondents.

(GAURI GODSE, J.)