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

REVIEW APPLICATION (CIVIL) NO. 23 OF 2015
IN WP/4067/2014

AASHRAFBEE MAUJAN INAMDAR
VERSUS
COMPETENT AUTHORITY, DEPUTY COLLECTOR LAND ACQUISITION,
OSMANABAD AND OTHERS

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Advocate for Applicant : Mr.Kulkarni Prashant P

AGP for Respondents: Mrs.V.A.Shinde.

Advocate for Respondents : Mr.V.D.Hon, Senior Advocate a/w Mr.A.V.Hon
for R/ 2 to R/4.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 20th August, 2015

Per Court:

1 The Petitioner seeks review of the order dated 18.12.2014
delivered by this Court in Writ Petition No.4067/2014.

2 The Petitioner relies upon Section 3H(4) of the National
Highways Act, 1956. The grievance is that the moment there is a dispute
raised by any party as regards the apportionment of the amount or any
part thereof payable to a person to whom the amount or any part thereof

is payable, the competent authority should refer the dispute for decision to the Principal Civil Court of the original jurisdiction within whose jurisdiction the land is situated.

3 The contention of the Petitioner is that such a dispute necessarily has to be referred to the Civil Court. He places reliance upon the following judgments:-

- (1) Prasada Rao Mikkilineni v/s State of Andhra Pradesh, 2000 SCC (9) 371.
- (2) Omvir Singh v/s State of Uttar Pradesh, 2004 AWC (1) 897 : 2004 ALL LR (55) 280.
- (3) Ghanshyam Bansal v/s State of U.P., 2014 AWC (2) 1998.
- (4) Harjeet Singh v/s Punjab State, 2013 TLP&H 4019.
- (5) Sakhubai @ Shakuntala V. Chopde v/s National Thermal Power Corporation, 2012 AIR (Bom) (4) 717 : 2012 Mh.L.J. (4) 147.
- (6) R. Shanmugam v/s Special District Revenue Officer (L.A.), Coimbatore, 2013 TLMAD 1457.
- (7) Writ Petition No.1234/2015 with Writ Petition No.1231/2015 dated 11.06.2015 (Aurangabad Bench).

4 The Petitioner is aggrieved by the fact that the competent authority has actually disbursed the amount by way of apportionment and the Petitioner is left out. The contention is that this aspect has not been

properly considered by this Court while delivering the order under review and hence, there is an error apparent on the face of the record.

5 Further contention of the Petitioner is that the share of compensation payable to the Petitioner has been received by Respondent Nos.2, 3 and 4 and the said parties are utilizing the share of money to which the Petitioner is entitled to. This aspect has been lost sight of by this Court and hence, this amounts to an error apparent on the face of the record.

6 Shri V.D.Hon, learned Senior Advocate has opposed the Review Petition.

7 I have considered the submissions of the Petitioner and the grounds raised in the memo of the review petition from page 3 to page 7 and the reports cited.

8 The fact situation has been recorded by this Court from paragraphs 2(a) upto 2(m) in the order under review. It was noted by this Court that the Petitioner did not respond to any of the public notices which were published on 13.10.2012 and 18.03.2013 vide which 21 days' notice for raising objections under Section 3G(3) of the National

Highways Act, 1956 was given. The hearing on the objections was placed before the competent authority.

9 For the first time, on 31.10.2013 the Petitioner filed an application purportedly being her objections contending that the earlier sale entered into by her father and the sale deed executed in 1968 was bad in law. It was an admitted position that from 1968 till 31.10.2013, the Petitioner has not questioned the Sale Deed executed in 1968 by her father.

10 It cannot be overlooked that the Petitioner has then preferred RCS No.348/2013 seeking declaration of ownership and permanent injunction against the three claimants and another person in December, 2013. The said suit is pending adjudication.

11 It is not disputed that the award was pronounced on 24.07.2013 which was not objected to by the Petitioner. After the Petitioner filed an application on 31.10.2013, the competent authority in order to consider the grievance of the Petitioner, posted the matter for hearing on 11.02.2014, 25.02.2014 and 05.03.2014. The Petitioner appeared on the first date 11.02.2014 and stated that her one page application is the only grievance that she has voiced. Thereafter, she

stopped participating even in the said hearing. Finally, the amount was disbursed to the Respondent Nos.2, 3 and 4 on 15.04.2014 prior to the issuance of notice by this Court on 03.05.2014 in the Writ Petition.

12 While disposing of the Writ Petition, this Court had imposed conditions on Respondent Nos.2, 3 and 4 in paragraph 23 and further observed in paragraph 25 as under:-

“23 Ends of justice would be met by directing the Respondent Nos.2, 3 and 4 to file an affidavit individually in this Court with copies being served on the Petitioner and other Respondents, indicating therein that, in the event the Civil Court or for the said reason any court of competent jurisdiction decides the issue raised by the Petitioner in R.C.S. No.348/2013 or in any other proceeding, upholding the claim of the Petitioner, the Respondent Nos.2, 3 and 4 shall be duty bound to deposit that portion of the amount as would be determined by the Court of competent jurisdiction along with interest from 15.04.2014 till the date of actually depositing the amount in the Court. Such affidavits shall be filed in this Court till 24th December, 2014. The said undertaking shall be an undertaking given to this Court and the Respondent Nos.2, 3 and 4 shall be duty bound to abide by it.

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25 In the light of the above, the Writ Petition is disposed of with the above observations. Needless to state, the apportionment of the compensation amount to the Respondent Nos.2, 3 and 4 shall be subject to the result of RCS No.348/2013. There will be no order as to costs.”

13 In the light of the above, it is evident that the interest of the Review Petitioner has been safeguarded. The Petitioner has failed to point out an error apparent on the face of the record for reviewing the order dated 18.12.2014. The Review Petition is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)