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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3529 OF 2015

Shaikh Yusuf Shaikh Alam
Age - 53 years, Occ - Labouror,
R/o Bidkin, Taluka - Paithan,
District - Aurangabad

PETITIONER

VERSUS

1. Shaikh Pashu s/o Shaikh Alam
Age - 50 years, Occ - Business
R/o Nilajgaon Road,
Behind Bagwan Galli, Bidkin
Taluka - Paithan,
District - Aurangabad
2. Shaikh Ahmed Shaikh Alam
Age - 51 years, Occ - Labour
R/o Nilajgaon Road,
Behind Bagwan Galli, Bidkin
Taluka - Paithan,
District - Aurangabad
3. Shaikh Sadiq Shaikh Alam,
Age - 48 years, Occ - Labour
R/o Nilajgaon Road,
Behind Bagwan Galli, Bidkin
Taluka - Paithan,
District - Aurangabad
4. Shaikh Aabedabi w/o Shaikh Alam
Age - 70 years, Occ - Household
R/o Nilajgaon Road,
Behind Bagwan Galli, Bidkin
Taluka - Paithan,
District - Aurangabad
5. Sub Divisional Officer and
Land Acquisition Officer,
Paithan - Phulambri Officer,
Mukundwadi, Aurangabad

RESPONDENTS

6. The Administrative Officer,
Maharashtra Industrial Development Corporation
Vedant Nagar Old Satyam Talkies,
MIDC, Aurangabad

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- Mr. Chandrakant R. Thorat, Advocate for the petitioner
Mrs. Y. M. Kshirsagar, AGP for respondent State
Mr. S. S. Dande, Advocate for respondent No.6
Mr. M.A. Khan, Advocate for respondents No.1 to 4

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 27th AUGUST, 2015

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally with consent of learned advocates for the appearing parties.
2. The matter is in a very short compass. There is no dispute that concerned land had been acquired by the acquiring authorities. The acquiring authorities had been impleaded as party defendants in the suit filed by present petitioner seeking declaration and injunction along with recovery of amount of compensation paid to defendants No.1 to 4, in respect of the property about which declaration has been sought.
3. The suit was being proceeded with, however, the court, *suo motu*, has passed an order striking out defendants No.5 and

6 from the array of defendants, considering that what is under challenge is land acquisition proceedings. However, said consideration appears to be little astray for the reason that what the petitioner is claiming is recovery of amount of compensation paid to defendants No.1 to 4, in respect of the property where he seeks declaration and share. The petitioner seeks recovery of amount of compensation from defendants No.1 to 4 and not from defendants No.5 and 6. Defendants No.5 and 6, as has been explained by learned advocate for the petitioner, appear to be in the array of defendants, for the reason that it is being claimed that certain amount is still due in respect of the acquired property where the petitioner is staking claim. Under the circumstances, defendants No.5 and 6 have been arrayed as parties seeking injunction against them restraining them from making payment of entire amount to defendants No.1 to 4, disregarding the petitioner's claim.

4. As such, it is clear that the validity of acquisition of proceedings is not at all under challenge in the suit. Thus, it appears to be that defendants No.5 and 6 have been arrayed as proper parties to the suit, having regard to the reason, which is incidental to the main relief to be claimed. I thus see that the impugned orders are unsustainable. As such, the impugned

orders dated 9th December, 2014 on Exhibit-1 so also dated 19th January, 2015 on Exhibit-11 in Regular Civil Suit No. 1036 of 2014 by Civil Judge, Senior Division, Aurangabad, stand set aside.

5. Writ petition is allowed in terms of prayer clauses "A" and "B". Rule is made absolute accordingly. Regular Civil Suit No. 1036 of 2014 to proceed with accordingly.

[SUNIL P. DESHMUKH, J.]

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