

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.1497 OF 2016

- 1) Shri. Saishradha Charitable Trust,
Saundalgaon, Tq-Ambad,
Through its President-
Bhimrao Shankarrao Jadhav,
Age-65 years, Occu:Business,
R/o-Low Income Group Housing
Society, Mukundwadi, Aurangabad,
Dist-Aurangabad,
- 2) Sau. Satyabhamabai w/o Bhimrao Jadhav,
Age-62 years, Occu:Household,
R/o-As Above.

...PETITIONERS

VERSUS

- 1) The State of Maharashtra,
Through: Secretary, Revenue
& Forest Department,
Mantralaya, Mumbai-32,
- 2) The Deputy Collector & Land
Acquisition Officer,
Collector Office, Jalna,
District-Jalna,
- 3) Sau. Ashabai w/o Narayan Giri,
Age-45 years, Occu:Service,
R/o-Belura, Tq. & Dist-Beed,

4) Project Director,
Project Implementation Unit,
Aurangabad,
National Highways Authority of India,
N-4, B-23, Near Kamgar Chowk,
CIDCO, Aurangabad,
Maharashtra-431003

...RESPONDENTS

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Mr. C.V. Thombre Advocate for Petitioners.
Mr.S.S. Dande, A.G.P. for Respondent Nos.1 & 2.
Mr. P.V. Ambode Advocate for Respondent No.3.
Mr. D.S. Manorkar Advocate h/f. M/s. M.V. Kini
& Company for Respondent No.4.

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**CORAM: R.M. BORDE AND
A.I.S. CHEEMA, JJ.**

DATE : 27TH JULY, 2016

ORAL JUDGMENT [PER R.M. BORDE, J.] :

1. Rule. Rule made returnable forthwith.
With the consent of the learned counsel for the
parties, taken up for final disposal.

2. The Petitioners are praying for
referring of the dispute raised relating to the
property acquired by the Highway Authorities, for
appropriate decision to the Civil Court.

3. The Petitioners claim that initially they possessed 100 R land i.e. 1 Hectar, out of which they have sold 99 R land in favour of Respondent No.3. The Highway Authorities have acquired the property, inclusive of 1 R land which remained with the Petitioners. The Petitioners however contend that the whole compensation for the acquired area has been withdrawn by Respondent No.3. It is further stated that the dispute raised by the Petitioners is required to be referred to the Civil Court in view of Section 3-H sub-clause (4) of the National Highways Act, 1956 and the dispute relating to the title of the acquired property cannot be adjudicated by the competent authority.

4. Since the Petitioners have raised dispute relating to the title of the acquired property and entitlement of Respondent No.3 to claim the amount of compensation, the dispute needs to be referred to the Civil Court for proper adjudication.

5. It is informed that Respondent No.3 has already received the amount of compensation, which shall remain with the concerned Respondent subject to the outcome of the proceedings before the Civil Court.

6. The impugned order passed by the competent authority is set aside and the objection raised by the Petitioners dated 7th December 2015 shall be referred for the decision of the Principal Civil Court of original jurisdiction within the limits of whose jurisdiction the land is situated i.e. District Court, Jalna, expeditiously.

7. Rule is made absolute to the extent as specified above. There shall be no order as to the costs.

[A.I.S.CHEEMA, J.]
asb/JUL16

[R.M. BORDE, J.]