

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

WRIT PETITION NO. 1473 OF 2016

Ashok Ramling More, **... Petitioner.**
Age 56 years,
Occu: Business & Agriculture
R/o Yadashi,
Taluka and District Osmanabad.

VERSUS

1. Union of India,
Through the Secretary,
The Ministry of Road Transport
and Highway, New Delhi
2. The Competent Authority,
National Highway No.211,
@ The Deputy Collector, Land
Acquisition, Medium Project
No.2, Osmanabad.
3. Dilip Dagdu Ghavar
Age 56 years, Occu: Agriculture,
R/o Yedashi,
Tq and District Osmanabad.
4. Sikandar Ismile Bagwan,
Age 75 years, Occu: Agriculture,
R/o Yedashi,
Tq. and District Osmanabad.
5. Ashok Maroti Lavte,
Age 30 years, Occu: Agriculture,
R/o Yedashi,
Tq. and District Osmanabad.

WITH

WRIT PETITION NO. 1561 OF 2016

1. Shantabai w/o Ashok More, **... Petitioner.**
Age 47 years,
Occu: Business & Agriculture
R/o Yadashi,

Taluka and District Osmanabad.

2. Sunita w/o Pradip More,
Age 38 years,
Occu: Business & Agriculture
R/o Yadashi,
Taluka and District Osmanabad.

3. Ashok Ramling More
Age 56 years,
Occu: Business & Agriculture
R/o Yadashi,
Taluka and District Osmanabad.

VERSUS

1. Union of India,
Through the Secretary,
The Ministry of Road Transport
and Highway, New Delhi

2. The Competent Authority,
National Highway No.211,
@ The Deputy Collector, Land
Acquisition, Medium Project
No.2, Osmanabad.

3. Navnath Ambadas Lakde
Age 56 years,
Occu: Agriculture & Medical
Practice, R/o Yadashi,
Taluka and District Osmanabad.

Shri Milind Patil, Advocate for the petitioner,
Shri S. B. Deshpande, Advocate for Respondents 1 & 2,
Shri S. S. Gangakhedkar, Advocate for respondents 3 &
4

**CORAM : R. M. BORDE &
K. L. WADANE, JJ.**

DATE : 13th July, 2016

JUDGMENT: (Per Borde, J.)

1. Rule. Rule made returnable forthwith.
2. By consent of the parties, taken up for final hearing.
3. The petitioners are objecting to the orders passed by the Competent Authority/The Deputy collector, Land Acquisition, Medium Project No.2, Osmanabad, refusing to refer the dispute raised by the petitioners in respect of disbursement of amount of compensation to the Civil Court.
4. Perused the orders passed by the Competent Authority and heard the learned counsel appearing for the respective parties.
5. On perusal of the application tendered by the petitioners as well as on consideration of the orders, we are of the considered view that the dispute raised by the petitioners in the matter cannot be dealt with by the Competent Authority, exercising jurisdiction under section 3-H (3) of the National Highways Act, 1956 and the dispute raised falls within the purview of Section 3-H(4) of the Act.
6. Section 3-H(4) of the Act prescribes that if

any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil Court of original jurisdiction within the limits of whose jurisdiction the land is situated. In the instant matter, on perusal of the objection, it prima facie appears that the dispute raised by the petitioners is in respect of "any person to whom the same or any part thereof is payable". Since, the dispute raised in the matter is in respect of entitlement of the petitioners to claim the amount or part of the amount determined by the competent authority as compensation payable for the acquired property, there is no option available to the competent authority to deal with the dispute but to refer the same for decision of the principal civil Court of the original jurisdiction.

7. It does appear that the competent authority has dealt with the objections and expressed opinion as regards merits of the claim raised by the petitioners. It prima facie appears that the dispute raised does not come within the ambit of section 3-H (3) of the

National Highways Act, 1956. In a case, where several persons claim to be interested in the amount deposited under sub-section (1) of section 3-H, the competent authority shall determine the persons who in its opinion are entitled to receive the amount payable to each of them. In the instant matter, the dispute is not as regards persons or several persons who claim to be interested in the amount deposited under sub-section (1) of section 3-H of the Act. The dispute raised is in respect of entitlement of the petitioners to receive the amount or part of the amount. The petitioners claim their entitlement on the basis of title derived by them and since the question is raised as regards the title of the petitioners qua the acquired property, we are of the opinion that it is only the Principal Civil Court of the original jurisdiction which would be competent to deal with the issue and pronounce the judgment.

8. In the facts of the case, the order passed by the competent authority, according to us, is in excess of the jurisdiction vested in the competent authority and therefore deserves to be quashed and set aside and accordingly it is quashed and set aside.

9. The objections raised by the petitioners in both the matters together with the amount determined by the competent authority shall be forwarded to the Principal Civil Court of the original jurisdiction of District Osmanabad. The competent authority shall forward the objections together with amount within a period of 15 days from today.

10. The Court dealing with the objections shall decide the dispute after recording evidence of the parties as expeditiously as possible and preferably within a period of one year from the date of receipt of record and proceedings.

11. It is informed that the first appeal concerning the title of the petitioners bearing Regular Civil Appeal No. 159 of 2014 is pending in the Court of District Judge, Osmanabad. The District Judge, Osmanabad is directed to decide the appeal as expeditiously as possible and preferably within a period of six months from today. The parties undertakes to cooperate for early disposal of the appeal.

12. The application for disbursement of the amount

deposited by the competent authority, that would be presented by the respondents or the petitioners, shall be dealt with and appropriate orders shall be passed by the Court dealing with the reference as expeditiously as possible and preferably within a period of three months from the date of tender of the application.

13. Rule is accordingly made absolute. There shall be no order as to costs.

(K. L. WADANE, J.)

(R. M. BORDE, J.)

JPC