

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

WRIT PETITION NO. 8734 OF 2015

Manikrao Yadavrao Pathade .. Petitioner
Versus
The State of Maharashtra and others .. Respondents

Shri Kishor R. Doke, Advocate for the Petitioner.
Shri S. M. Ganachari, A.G.P. for the Respondent No. 1.
Shri S. G. Jadhavar, Advocate for Respondent Nos. 2 to 6.
Shri D. S. Manorkar, Advocate for the Respondent No. 7 and
added party.

**CORAM : S. V. GANGAPURWALA AND
K. K. SONAWANE, JJ.
DATE : 04TH JULY, 2016.**

PER COURT :

. Leave to add Highways authority as party respondent.
Issue notice to added party respondent. Mr. Manorkar, the
learned counsel accepts notice for added party and files affidavit
in reply.

2. Heard Mr. Doke, the learned counsel for the petitioner, Mr.
Jadhavar and Mr. Manorkar, the learned counsel for
respondents. The petitioner assails the order dated 05.05.2015
passed by the respondent No. 1 thereby rejecting his objection on
the ground that litigation is pending between the parties.

3. It is the case of the petitioner that, grievance made in

respect of five persons is not a subject matter of any litigation and on erroneous belief that there is litigation pending has decided the said objection.

4. As per the respondents, the petitioner has no concern with the land acquired and land is allotted after it is resumed by the Government in the year 1988 to those persons.

5. These rival contentions are to be gone into by the competent authority U/Sec. 3(g) of the Highways Act. It appears that, the authority has not considered said aspect and only on the ground said litigation is pending has disposed of the objection. The powers vest with the competent authority U/Sec. 3(g) of the Highways Act to consider the said objection and recourse is open to him to decide the said objection or to refer it to the Civil Court.

6. Considering the above, the impugned order is quashed and set aside. The competent authority shall reconsider the objection raised by the petitioner and take decision on it, on its own merits, in accordance with law. The contentions of the respective parties are kept open. The same shall be decided after hearing the parties concerned. The writ petition is disposed of with aforesaid observations and directions. No costs.

[K. K. SONAWANE, J.]

[S. V. GANGAPURWALA, J.]

bsb/July 16