

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

WRIT PETITION NO. 11792 OF 2015

Baburao Chimaji Sangle and Others ..PETITIONERS

VERSUS

The Union of India and Others ..RESPONDENTS

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Mr. S.A. Deshmukh, Advocate for petitioners.

Mr. S.K. Tambe, A.G.P. for Respondent No.3.

Mrs. M.R. Jamdhade, Advocate for Respondent No.7.

Mr. B.A. Panchal, Advocate for Respondent No.8.

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CORAM : T.V. NALAWADE, J.

DATED : 01st DECEMBER, 2016

ORDER :

1. The petition is filed to challenge the notification dated 23rd August, 2013 issued by the National Highway Authority and order dated 30th November, 2015 passed by the Special Land Acquisition Officer, Jalna. Both sides are heard.

2. It appears that some portion of agricultural lands bearing Survey No. 32 converted into Gut Nos. 126, 127, 128, 129 and 130 had acquired by National Highway Authority and award is also already prepared for making payment of compensation in favour of Respondent Nos. 4 to 9. It is

the case of the plaintiff that he is the owner of some portion of those lands and the portion of those lands are acquired so he is entitle to get compensation. He has filed Civil Suit No. 91 of 2010 in the Court of Civil Judge, Junior Division, Ambad for relief of possession against the present respondents of that portion. The suit is still pending. It appears that after filing of the suit, the acquisition proceeding was started and award came to be made. As he has disputed title of respondent to get the compensation, he had moved to authority and he had requested to stop making of payment to respondent and give compensation to him. This prayer is rejected by the authority.

3. Learned Counsel for petitioner produced the copy of order made by the District Superintendent of Land Records, Jalna in his favour and he submitted that there was some mistake committed in the revenue record but that mistake is corrected by order dated 21st November, 2016 and this circumstance needs to be considered and the payment needs to be made to him.

4. This Court is avoiding to go into the factual aspect and merits of the matter. When substantive suit is pending in the Civil Court, it was open to the present petitioner to go to the Civil Court and get appropriate orders

which could have been of interim nature. By such order, Civil Court could have prevented the authority from making payment and can direct to deposit the amount in the Court. This was not done but the matter was prosecuted before the authority itself by the present petitioner.

5. In view of aforesaid circumstances, this Court holds that it is not possible to give any direction or make change in the award made by the authority in favour of the respondents. All these things can be considered by the Civil Court and entitlement will have to be considered by the Civil Court in the pending suit. It appears that this Court had granted interim relief and due to that payment is stopped. This Court holds that time of one more month can be given to the petitioner to take appropriate steps.

6. In the result, petition stands disposed of. Time of one more month is given to the petitioner to approach to the Civil Court for taking appropriate steps and till then the authority is not to disburse the compensation amount. Authenticated copy to both sides. If the Civil Court refuses to grant relief and time expires, there will be no hurdle for disburse the amount.

(T.V. NALAWADE, J.)

SSD