

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

WRIT PETITION NO. 8380 2016

Hajera Begum w/o Mohd. Shafiyoddin, ... **Petitioner**
Age 60 years, Occu: Household,
R.o Lohar Lane, Juna Bazzar, Beed,
Taluka and Dist. Beed

VERSUS

1. The State of Maharashtra
Through its Secretary
Revenue and Forest Department,
Mantralaya, Mumbai
2. The Collector, Beed.
3. The Deputy Collector, Beed @
The Land Acquisition officer,
Beed.
4. Sayed Ismile s/o Sayyed Hamid,
Age 61 years, Occu: Business,
R/o Kazi Lane, Momin Mohalla,
Georai, Dist. Beed.
5. Muzzafar s/i Sayyed Himid
Age 52 years, Occu: BUiness
R/o As above
6. Sayyed Mustakhim s/o Sayyed
Hamid, Age 43 years, Occu:
Business, R/o As above
7. Sayyed Jaffar s/o Sayyed Hamid,
Age 56 years, Occu: Business,
R/o Kanade lane, Momin
Mohalla, Georai, Dist. Beed
8. Sayed Mujallim s/o Sayyed Hamid
Age 48 years, Occu: Business,
R/o As above

9. Sahara Begum w/o Abdul Salim
Taimore, Age 50 years, Occu:
Household, R/o Kadarpura,
Barshi Naka, Beed.

10. Najera Begum w/o Abdul Rahim ... **Respondents**
Taimore, age 45 years, Occu:
Household, R/o as above.

Mr. Amol S. Gandhi and Mr. Nikhil Tungar, Advocates for
Petitioner

Mrs. M. A. Deshpande, Addl. GP for Respondents State

Mr. Mayur V. Salunke with Mr. V. D. Salunke, Advocates
for Respondent Nos. 4 to 8

Mr. G. K. Naik-Thigale, Advocate for respondents 9 & 10

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

DATE : 12th April, 2017

JUDGMENT (Per R. M. Borde, J.):

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

2. Petitioner is daughter and respondent Nos. 4 to
8 are sons of deceased Sayyed Hamid whereas,
respondent Nos. 9 and 10 are sisters of the petitioner.
The petitioner claims her entitlement in respect of
property left behind by Sayyed Hamid. The property
originally belonging to deceased Sayyed Hamid, father
of the petitioner and respondent Nos. 4 to 10 has been
acquired for construction of National Highway. The
petitioner tendered an application to the competent

authority claiming apportionment of amount determined under the Award. The petitioner requested the competent authority to refer the matter for decision of the Principal Civil Court of the original jurisdiction of the District, however the said application has been rejected by the competent authority.

3. It is not a matter of dispute that the petitioner has lodged a suit against the respondents herein claiming her entitlement in respect of the property left behind by deceased Sayyed Hamid. The suit is stated to be pending. In the circumstances, in view of provisions of section 3-H(4) of the National Highways Act, 1956, it was mandatory for the competent authority to refer the matter for determination to the District Court. The order passed by the competent authority is erroneous and as such, deserves to be set aside and the same is accordingly set aside.

4. The competent authority is directed to refer the application tendered by the petitioner seeking apportionment of the amount of compensation for decision of the Principal Civil Court of Original Jurisdiction i.e. the District Court, Beed.

5. With the directions as above, writ petition is disposed of. Rule is accordingly made absolute. In the facts and circumstances of the case, there shall be no order as to costs.

(K. L. WADANE, J.)

(R. M. BORDE, J.)

JPC