

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12499 OF 2017

Shivaji Ramrao Gapat

...Petitioner

Versus

Preabhakar Ramrao Gapat and Others

...Respondents

Mr. V. D. Salunke, Advocate for petitioner

**CORAM : R. M. BORDE &
SMT. VIBHA KANKANWADI. JJ.**
DATE : 07-11-2017

PER COURT :

1. The learned counsel for the petitioner is objecting to the order passed by the competent authority referring the dispute in respect of disbursement of compensation amount to the Civil Court in exercise of powers conferred under Section 3-H (4) of the National Highways Act, 1956. The respondent has presented civil suit against the petitioner claiming partition of the ancestral property and claim is raised in respect of 1/4th share. An application was also tendered to the competent authority by the respondent seeking reference of the matter

to the Civil Court, in view of the provisions of Section 3-H (4) of the Act of 1956.

2. The learned counsel appearing for petitioner has invited our attention to Sub-section 3 of Section 3 H and contends that, it is for the competent authority to determine as to who is entitled to receive the amount and since the respondent has claimed 1/4th share, in undivided property, it was not open for competent authority to refer the dispute and remit the amount to the Civil Judge.

3. Sub-section 3 of Section 3-H shall have to be read in harmony with Sub-section 4 of Section 3-H. In the instant matter a dispute is raised as regards apportionment of compensation amount or any part thereof and the person to whom the same or part there of is payable. Since the dispute is raised which is capable of being determined by the Civil Court, competent authority was justified in referring a dispute for determination of Civil Court. It would be open for the petitioner to tender an application to the civil court seeking liberty to withdraw compensation amount and if such an application is made, it would be obligatory on the part of the Civil Court to decide the same.

4. No interference is called for in exercise of extraordinary

jurisdiction under Article 226 of Constitution of India.

5. Writ petition is devoid of merits, hence stands rejected.

[SMT. VIBHA KANKANWADI]
JUDGE

[R. M. BORDE]
JUDGE

vjg/-.