

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

WRIT PETITION NO. 58 OF 2016

Mahananda Umashankar Darekar
and others .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri S. S. Gangakhedkar, Advocate for Petitioners.
Ms. Rashmi P. Gaur, A.G.P. for Respondent Nos. 1 and 2.
Shri P. S. Chavan, Advocate for Respondent Nos. 3 and 5.

**CORAM : S. V. GANGAPURWALA , J.
DATE : 21ST APRIL, 2017.**

PER COURT :

. Heard Mr. Gangakhedkar, the learned counsel for petitioners and the learned counsel for respondents. The petitioners assail the order directing the petitioners/defendant Nos. 1 and 2 to deposit the compensation amount.

2. According to Mr. Gangakhedkar, the learned counsel, the suit filed by the plaintiffs itself is not tenable. The matter has to be referred by the Highway Authority U/Sec. 3-B(4) of the Highways Act to the Civil Court. The Highway Authority has not referred the matter and the plaintiffs on their own accord have filed civil suit. Such a suit is not tenable, nor the civil Court can

exercise the jurisdiction in respect of said matter. Ignoring all these aspects the impugned order is passed.

3. I would have considered the contentions of petitioners, had the said order not been complied. It appears that the amount of Rs. 30,30,300/- is already deposited by the petitioners herein.

4. In view of that, the contentions raised herein would be only academic for this Court to decide.

5. While defending the suit, the petitioners can raise all the available defences such as jurisdiction, maintainability, etc. which naturally Court would consider at the time deciding the suit. The writ petition accordingly is disposed of. No costs.

[S. V. GANGAPURWALA, J.]