

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5403 OF 2014

Smt. Gitabai Govind Kate & Ors.] ... Petitioners

Versus

The State of Maharashtra & Ors.] ... Respondents

Mr. Kishore Patil for Petitioners.

Mrs. M. P. Thakur, AGP for State.

Mr. Rupesh Lanjekar for Respondent No.4.

**CORAM :- DR. MANJULA CHELLUR, C.J., &
G. S. KULKARNI, J.**

DATE :- 16 MARCH 2017

P. C. :-

1. The present petition pertains to Survey No.11 situated at Village Agar Takil in Nashik about the acquisition in respect of 5000 sq. meters of land in the above-said survey number.

2. According to the petitioners, by virtue of inheritance of tenancy rights through their father, they were in possession of the property in question when the acquisition proceedings were initiated and later possession of the property was taken. Respondent no.4 is also claiming interest in the above-said property as a tenant. The property belongs to a 'Devasthan' which is administered by a trust. Whether the petitioners' father was the tenant or respondent no.4 was

the tenant under the '*Devasthan*', has to be decided before the proper forum. Apparently, the tenancy rights seems to have been declared in favour of the petitioners before the Maharashtra Revenue Tribunal in Case No.26 of 2011. The said order is under challenge in Writ Petition No.14045 of 2016 filed at the instance of respondent no.4 which is yet to be decided. Meanwhile, the compensation amount which is not yet disbursed, has to be deposited in an interest earning fixed deposit of a nationalized bank after the said amount is deposited by the respondent - Special Land Acquisition Officer in the Civil Court in terms of the 2013 Act (Section 31 of the Land Acquisition Act, 1894) and the same has to be disbursed only after finalization of tenancy rights. Though reference Court can deal with the apportionment of the amount, we are afraid in the present case it may not be so till the decision of the tenancy rights. In that view of the matter, we dispose of the Writ Petition in the above terms.

(G. S. KULKARNI, J.)

(CHIEF JUSTICE)