

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2788 OF 2018

TARAMATI RAMNATH MOHITE AND ANOTHER
VERSUS
UNION OF INDIA AND OTHERS

...
Advocate for Petitioners : Mr. Manoj U. Shelke.
AGP for Respondents No.1 to 3 : Mr. C. S. Kulkarni.

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CORAM : R.M. BORDE &
K.K. SONAWANE, JJ.

DATE : 15th March, 2018.

PER COURT:-

1. The petitioner is praying for referring a dispute in relation to payment of compensation of the acquired land by the National Highways Authority for determination to the civil court. The petitioner contends that in view of provision of section 3(H)(3) of the National Highways Act, 1956, it is the duty of the competent authority to refer the dispute to the civil court. It is contention of the petitioner that he has purchased small piece of land out of Gat No. 61 owned by one Dr. Ramchandra Haribuva Giri. There was a suit, instituted by the vendor seeking cancellation of sale deed, bearing R.C.S.No. 112 of 2012. The suit presented by respondent has been decreed and the decree passed by the trial court is subjected to challenge by the present petitioner before the Appellate Forum. It is stated that the appellate forum has granted stay to the execution of decree. Apart from there being a dispute as regards entitlement of petitioner to claim plot out of larger Gat Number, there is also a dispute in respect of identification of the plot. It has not been demonstrated that the plot purchased by the petitioner forms part of the area taken in possession by the respondent National Highways Authority. The petitioner, in view of the decree passed by the trial Court and pending litigation, do not have a right to claim entitlement in respect of the property. The competent authority has

determined compensation. The question as regards the entitlement of the respondent to receive the amount of compensation in reference to Section 3(G) of the National Highways Act is decided by the Competent Authority. While permitting withdrawal of the amount, a condition has been imposed to the effect that in the event of decision in the appeal between the parties pending with the first appellate court, relating to the entitlement of the petitioner in relation to plot in question, goes against her, the respondent Smt. Umadevi will be bound to return back the amount of compensation to the State together with interest. An undertaking in that regard has also been secured while disbursing the amount of compensation.

2. In view of the aforesaid condition imposed while disbursing the amount of compensation in favour of respondent, the grievance raised by the petitioner in the instant petition does not deserve to be considered. Keeping the option of the petitioner to avail of the remedies as available in law, as and when cause of action accrues or in case the decision in the appeal goes in her favour, open the writ petition stands disposed of.

[K.K.SONAWANE, J]

[R.M. BORDE, J]

grt/-