

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

WRIT PETITION NO.4461 OF 2018

Sundarlal s/o Dadaram Khare,
Age 58 years, Occu : Agril.,
R/o 5-3-127, Old Osmanpura,
Aurangabad.

... **Petitioner**

Versus

1. The National Highway Authority of India
Through its Project Director,
B-23, N-4, CIDCO, Near Kamgar Chowk,
Aurangabad, District Aurangabad.
2. The Sub-Divisional Officer and
Competent Authority National Highway No.211
(Aurangabad-Dhule), Aurangabad.
3. The Tahsildar,
Tahsil Office, Aurangabad.
4. The Dy. Director,
Land Records Aurangabad.
5. Manoj s/o Shivnath Gaikwad,
Age 30 years, Occu : Agril.,
R/o Balaji Nagar, Near Krupa Medical,
Plot No.D-880, Aurangabad.
6. Sarjerao s/o Vishwanath Chavan,
Age 40 years, Occu : Agril. & Business,
R/o Shivaji Nagar, Garkheda,
12th Scheme, near Swami Samarth Mandir,
Aurangabad.
7. Manohar s/o Vishwanath Chavan,
Age 38 years, Occu : Agril.,
R/o Karodi,
Tq. & Dist. Aurangabad.

... **Respondents**

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Mr. P.B.Shirsath, Advocate for Petitioner
Mr. D.R.Kale, AGP for Respondent Nos.2 to 4 – State
M/s. M.V.Kini & Co. & Mr. D.S.Manorkar, Advocates for
Respondent No.1.

Mr. R.N.Dhorde (Sr. Counsel) h/f Mr. V.R.Dhorde,
Advocates for Respondent Nos.5 to 7.

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**CORAM : R.M.BORDE AND
MANGESH S. PATIL, JJ.**

DATE : 27.08.2018

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

1. Heard. Rule. Rule returnable forthwith. With the consent of parties, the Petition is taken up for final disposal at the admission stage.

2. The facts giving rise to the instant petition need not be recorded in detail. However, suffice it to note that there is a dispute as regards entitlement of the parties to receive the amount of compensation determined by the Land Acquisition Officer in respect of the acquisition of the property for the National Highway by the Central Government.

3. It is not a matter of dispute that Section 3-D Declaration of acquisition under the Provisions of National Highways Act, 1956 (herein after referred to as 'Act of 1956') has been published in the newspaper on 31.10.2015 and the same was published in the official gazette of 15.09.2015. On the publication of the declaration under Sub section 1 of Section 3-D of the Act of 1956, the land under acquisition absolutely vests in the Central Government free from all encumbrances. The land under acquisition thus vest in the Central Government by virtue of provisions of the Act of 1956. There appears to be a dispute between the parties as regards the apportionment of compensation since there are basic differences are as regards the boundaries of the property. The entitlement of the parties to receive the amount of compensation shall have to be decided by the Civil Court in accordance with the provisions of Section 3-H(4) of the Act of 1956. It is stipulated that if any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent

authority shall refer the dispute to the decision of the Principal Civil Court of the original jurisdiction within the limits of whose jurisdiction, the land is situated.

4. The learned counsel appearing for the petitioner makes a statement that his client would tender an appropriate application seeking reference of the matter to the competent Civil Court within a period of two (2) weeks from today. On receipt of the application, the competent authority shall refer the dispute for the decision of the Principal Civil Court of the original jurisdiction within the limits of whose jurisdiction the land is situated together with the amount of compensation deposited by the acquiring body as expeditiously as possible, preferably within a period of two (2) weeks from the date of such receipt. It would be open for the petitioner and / or other parties to approach the Civil Court for seeking appropriate orders as regards withdrawal of the amount of compensation or as regards determination of the entitlement of the parties to receive the amount of the compensation. It is clarified that this Court has not examined the merits of

the contention of the parties and it would be open for the Civil Court to deal with the matter in accordance with the provisions of the law.

5. With the directions as above, the Writ Petition is disposed of. Rule is made absolute to the extent as specified above. There shall be no order as to costs.

(MANGESH S. PATIL, J.)

(R.M.BORDE, J.)

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vmk/-