

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

WRIT PETITION NO. 6089 OF 2017

Maruti s/o Sydam Rasal and ors.

.. Petitioners

Versus

The State of Maharashtra and ors.

.. Respondents

Mr K.D. Bade Patil, Advocate for petitioners

Mr G.O. Wattamwar, A.G.P. for respondent no.1 to 3

Mr H.V. Tungar, Advocate for respondents no.4 and 5

**CORAM : S.V. GANGAPURWALA &
A.M. DHAVAL, JJ**

DATE : 18th January 2018

PER COURT

1. Mr Bade, learned Counsel for the petitioners submits that the objection was raised under Section 3 (H) 4 of the National Highway Act, 1956 to the disbursement of the compensation amount. Once an objection has raised under Section 3 (H) 4 of the National Highway Act, the competent authority has to refer the dispute to the Civil Court and ought not to have decided the objection on its own. The suit for partition and separate possession filed by the petitioners is already pending before the Civil Court. In spite of that competent authority rejected objection of the petitioners without jurisdiction.

2. Mr Tungar, learned Counsel for respondents no.4 and 5 submits that after the order is passed by the competent authority rejecting the objection of the petitioner, the amount has been disbursed to respondents no.4 and 5.

3. Considering the fact that entire amount has been disbursed to respondents no.4 and 5, the question in the present matter would only be academic.

4. The petitioners may obtain orders from the Civil Court as present respondents no.4 and 5 are also parties in the Civil suit. While deciding the Civil Suit, the impugned order passed competent authority would not be an impediment nor would have any effect on the orders to be passed by the Civil Court. The parties would be governed by judgment and decision of Civil Court.

5. Writ Petition stands disposed of. No costs.

(A.M. DHAVAL, J.)

(S.V. GANGAPURWALA, J.)

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