

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

907 WRIT PETITION NO. 10933 OF 2018

JAINTUNBEE SHAIKH AYYUB AND OTHERS
VERSUS
THE COMPETENT AUTHORITY LAND ACQUISITION AND OTHERS

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Advocate for Petitioners : Shri Vakil Afzal Husain M.

AGP for Respondent 1 : Shri Shinde B.A.

Advocate for Respondents 3 to 9 : Shri Ansari A.N.

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CORAM : RAVINDRA V. GHUGE, J.

Dated: October 04, 2018

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PER COURT :-

1 Heard learned Advocates and AGP for the respective sides. None appears for respondent No.2. A service affidavit dated 16.9.2018 is also placed on record along with the original receipts of the Indian Posts Department indicating that such notices have been posted to the respondents.

2 Respondents 10 to 12 are the formal parties and the contesting respondents are respondents 3 to 9, who are represented by the learned Advocate.

3 Having considered the submissions of the learned Advocates and the learned AGP, I find that the impugned order dated 22.2.2018, passed by respondent No.1 will have to be set aside for the following reasons:-

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(a) Section 3-H(4) mandates that the competent authority shall refer the dispute to the decision of the Principal Civil Court or original jurisdiction within whose limits of jurisdiction, the land is situated. The dispute, therefore, will have to be referred to the Principal Civil Court, at District Aurangabad.

(b) Respondent No.1 has transferred the compensation amount to the District and Sessions Court, Aurangabad. Rule 2(1)(a) and (b) and Rule 2(2) of the National Highways (Manner of Depositing the amount by the Central Government with the Competent Authority for Acquisition of Lands) Rules, 1988 ("the said Rules"), requires the competent authority to deposit the amount in a separate public deposit account in the Public Account of India. Respondent No.1 has transferred the amount to the District and Sessions Court, Aurangabad, without considering these provisions.

4 In view of the above, this petition is allowed partly, only to the extent of setting aside the order dated 22.2.2018, with a further direction to respondent No.1 to pass an order afresh referring the case to the Principal Civil Judge with the original jurisdiction by considering the pecuniary jurisdiction, in view of the total compensation amount and therefore, the said dispute will have to be referred to the learned Civil Judge (S.D.), Aurangabad as the amount of compensation is said to be less than Rs. One Crore. So also, respondent No.1 would consider

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the effect of the said Rules in regard to depositing the amount.

5 Needless to state, the concerned Court shall issue notices to all
the litigating sides and all contentions are kept open.

(RAVINDRA V. GHUGE, J.)

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