

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

WRIT PETITION NO. 10995 OF 2018

**LOCHANABAI NIVRUTTI SURWASE AND ANOTHER
VERSUS
BABURAO BHANUDAS SHINDE AND OTHERS**

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Advocate for the Petitioners : Shri N. B. Khandare
AGP for Respondent No. 6 : Shri K. S. Patil

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 03rd OCTOBER, 2018.

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PER COURT :

1. The petitioners, who are original plaintiffs in Regular Civil Suit No. 84/2007, are aggrieved by the order dated 16/07/2018 passed by the Trial Court, by which, their application Exhibit No. 203 seeking permission to add the Deputy Collector, Land Acquisition, Manjara Project, Osmanabad, as defendant No.6, has been rejected.

2. The learned Advocate for the petitioners has drawn my attention to application Exhibit No.203 and the grounds raised in the petition. It is contended that as some portion of land block No. 59 and 70 was acquired for the National High Way,

compensation amount was awarded and it was withdrawn by defendant No.4 alone namely Vandana Baburao Shinde. The compensation amount is a part and parcel of the suit property. It is contended that unless the Deputy Collector, Land Acquisition is added as a defendant, the Trial Court would not be able to decide the suit in the absence of the said party.

3. I find that RCS No. 84/2007 was filed by these petitioners seeking partition and separate possession. Baburao Shinde is defendant No.1, who is the husband of Vandana Shinde who is defendant No.4 and she has alone received the compensation amount for the portion of the land acquired, as per the petitioners. The suit is for partition and separate possession. The prayers put forth in the suit are to the extent of the plaintiffs claiming half share of the suit properties, as well as, from the amount of compensation which is said to be paid only to defendant No.4 Vandana. Further prayer is that the plaintiffs be put in actual possession to the extent of half of the suit property by evicting defendant No.1.

4. In the above backdrop, I do not find that the Deputy

Collector, Land Acquisition is a necessary party. The reasons assigned by the Trial Court in the impugned order cannot be branded as being perverse or erroneous.

5. This petition, being devoid of merit is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

shp/-