

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.5343 OF 2016

01 Achala w/o Pravin Borgave,
age: 36 years, Occ: Household,
R/o Jaysingpur, Tq. Shirol,
District Kolhapur.

02 Smita w/o Rajesh Kote,
age: 34 years, Occ: Household,

03 Avanti w/o Dhanesh Kote,
age: 32 years, Occ: Household,

Both R/o Walchandnagar,
Tq.Indapur, District Pune.

04 Sonal w/o Madan Paraye,
age: 29 years, Occ: service,
R/o Mukundwadi, Kasliwal
Park, N-4, Cidco, Aurangabad.

Petitioners

Versus

01 The State of Maharashtra,
through the Secretary,
Water Conservation and
EGS Department, Mantralaya,
Mumbai.

02 The Collector, Jalna,
District Jalna.

03 The Sub Divisional Officer,
Ambad, District Jalna.

04 Manoj s/o Bharat Zade,
age: 46 years, Occ: service,
R/o 3-Kalpataru Row House,
Kishor Suryawanshi Marg,
Meri, Nashik, District Nashik.

Respondents

Mr.Swapnil S. Paturkar, advocate i/by J.P.Legal Associates for petitioners.

Mr.P.N.Kutti, A.G.P. for Respondents No.1 to 3.

Mr.V.R.Jain, advocate for Respondent No.4.

**CORAM : R.M.BORDE &
A.M.DHAVAL, JJ.
DATE : 21st June, 2018**

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

1 Rule. Rule made returnable forthwith and heard finally by consent of learned Counsel for respective parties.

2 The petitioners have prayed for making reference of dispute raised by them in respect of apportionment of compensation in the application tendered by them to the Sub Divisional Officer to the competent Civil Court under Section 30 of the Land Acquisition Act, 1894.

3 There appears to be some dispute between brothers and sisters and a substantive suit claiming partition and possession of the property filed by the sisters i.e. petitioners herein is also pending in the Court of Civil Judge, Junior Division, Ambad, being R.C.S. No.203/2012. Petitioners also claim their entitlement in the compensation amount for acquisition of ancestral land, arrived at by the Sub Divisional Officer. The lands, which have been acquired, form part of subject matter of the suit presented by the petitioners in the Civil Court. Since there is a dispute as regards apportionment of amount of compensation between the parties, it was mandatory for Respondent No.3 to refer the matter for apportionment of amount of compensation between

the parties in accordance with Section 30 of the Land Acquisition Act, 1894. The Sub Divisional Officer has failed to appreciate the controversy in its correct perspective and has erroneously rejected the request made by petitioners for making reference to the Civil Court.

4 For the reasons recorded above, writ petition deserves to be allowed and same is accordingly allowed. The objection raised by the petitioners before the Sub Divisional Officer in respect of apportionment of amount of compensation shall be referred to the competent Civil Court, expeditiously. The order passed by the Sub Divisional Officer, to the extent as above, stands quashed and set aside.

5 Rule is accordingly made absolute in aforesaid terms. There shall be no order as to costs.

A.M.DHAVLE
JUDGE

R.M.BORDE
JUDGE

adb/