

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

921 WRIT PETITION NO. 282 OF 2018

Manikchand S/o Chandulal Borana ... Petitioner.

Versus

The State of Maharashtra
and others ... Respondents.

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Mr. S.R. Choukidar, Advocate for the Petitioner.
Mr. S.R. Yadav Lokinkar, A.G.P. for Respondent No.1.
Mr. S.B. Deshpande, A.S.G. for Respondent No.2

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CORAM : V.L. ACHLIYA, J.

DATED : 03rd MAY, 2018

PER COURT:-

1. The petitioner has preferred this petition challenging the order date 22.06.2017 and 25.10.2017 passed by the Competent Authority i.e. S.D.O. (Land Acquisition), Kalambe i.e. respondent no.2 in L.A.R. No.183/2017. By the impugned order, the respondent no.2 has referred the matter to Civil Judge, Senior Division for adjudication of dispute on account of objection raised by respondent Nos.3 and 4. The reference has been made in exercise of powers under Section 3H(4) of the National Highway Act, 1956.

2. In nutshell, it is the contention of the petitioner that the petitioner is the owner of the land, which was acquired for construction of national highway and solely entitled to receive the compensation. The respondent nos.3 and 4 have absolutely no right, title and interest in the land in question. With an ulterior move to extract the money from the petitioner, they raised false claim before respondent no.2 that they are entitled to receive the compensation. It is contended that without conducting any

enquiry and *prima facie* satisfying that there is a dispute which needs adjudication by the authority constituted under the said Act, the respondent no.2 has passed the order to refer dispute for adjudication. It is contended that because of the impugned order, the petitioner is deprived of his legitimate right to immediately receive the compensation of his land acquired by the respondent no.2.

3. Respondent nos. 3 and 4 though served with the notice failed to appear and contest the petition.

4. Respondent No.2 has filed the affidavit and justified the order of respondent no.2 to refer the matter for consideration of authority constituted under the National Highway Act, 1956 for adjudication of dispute.

5. On due consideration of the submissions advanced, I am of the view that the order passed by the authority being based upon the objection raised by respondent nos. 3 and 4 and passed within exercise of jurisdiction conferred under the provisions of National Highway Act, the order calls for no interference in exercise of writ jurisdiction under Article 227 of the Constitution of India. So far as the grievance of the petitioner that due to reference being made for adjudication, the petitioner will be deprived to immediately receive the legitimate claim of compensation, I am of the view the concern of the petitioner can be addressed by directing the Civil Judge, Senior Division, Bhoom to decide the reference in expeditious manner and preferably within six months.

6. Accordingly, the petition is disposed of with direction to Civil Judge, Senior Division, Boohm to expedite the adjudication of reference made in the matter of petition and decide the same within six months from the of communication of the order.

7. Petition stand disposed of in above terms.

(V.L. ACHLIYA)
JUDGE

SPR