

vai

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7831 OF 2018

Shaukat M. Hajoo

...Petitioner

V/s.

Smt.Noorjahan R. Bandivale & Ors.

...Respondents

Mr.Rajesh Patil for the Petitioner.

Mr.H.S.S. Murthy I/b Mr.Abhishek Patil for the Respondent Nos.1, 3,
4, 6 and 7.

CORAM : R.D. DHANUKA, J.

DATE : 6TH AUGUST, 2018.

P.C. :-

1. By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 7th June, 2018 passed by the Authority in the Land Acquisition Complaint Application Nos.1, 2, 3 – Ooni of 2017 directing the respondent no.8 to release the compensation for acquisition of the building.

2. The petitioner claims certain rights in the ancestral property which is the subject matter of the Regular Civil Appeal No.29 of 2018 challenging the decree of partition passed by the learned Civil Judge, Junior Division, Rajapur on 29th March, 2018. The said regular civil appeal has been filed by the respondent no.1. By an order dated 15th May, 2018, the District Court has granted stay to the

implementation of the order and decree dated 29th March, 2018.

3. The Competent Authority has passed the impugned order directing the petitioner to apply for distribution of compensation amount pertaining to the acquisition of building. The petitioner has not made any application for compensation before the Civil Court.

4. It is the case of the petitioner that in view of the stay granted by the District Court in the appeal preferred by the respondent no.1, the decree of partition has been stayed and as a result thereof, the petitioner is unable to take any steps in the said suit.

5. The property in question has been acquired by the National Highway Authority under the provisions of the National Highways Act, 1956 for public purpose. This Court thus cannot grant any stay in favour of the petitioner from demolishing the structure in question. Insofar as the question of compensation is concerned, it is for the petitioner to seek appropriate relief from the Civil Court in view of the rival disputes between the petitioner and the other members of his family.

6. Hearing of the Regular Civil Appeal No.29 of 2018 is expedited. The District Court, Ratnagiri shall decide and dispose of the said Regular Civil Appeal No.29 of 2018 expeditiously and not later than one year from the date of the communication of this order. It is also made clear that the petitioner would be at liberty to seek

appropriate relief of compensation. The parties are directed to co-operate with each other and also with the learned District Judge in disposing of the said regular civil appeal expeditiously and shall not seek any unnecessary adjournment.

7. I am not inclined to interfere with the impugned order passed by the Competent Authority dated 7th June, 2018 keeping the remedy of the petitioner to claim compensation open.

8. The writ petition is accordingly disposed of in aforesaid terms. There shall be no order as to costs.

9. All the parties to act on the authenticated copy of this order.

(R.D. DHANUKA, J.)