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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 13758 OF 2018

Damodharan Chahatu Kutti Nayar .. Petitioner

Vs.

The National Highway Authority of India
Ministry of Road, Transport & Highway
& ors.

.. Respondents

.....

Mr. D.S. Mhaispurkar a/w. Sameer Mangaonkar for the petitioner.

Ms. Nisha Mehra, AGP for respondent Nos. 2,3 and 5.

Mr. Ravindra Bombe, Naib Tahsildar, Sub-Division Officer, Kalyan.

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**CORAM : NARESH H. PATIL, CJ. &
M.S. KARNIK, J.**

DATE : 6th DECEMBER, 2018

P.C. :

By this Petition filed under Article 226 of the Constitution of India the petitioner prays for following reliefs :

a) this Hon'ble Court be pleased to issue appropriate writ for directing the Respondent No.2 to decide the claim of the Petitioner as empowered under sub-section 3 and 4 of section 3H of the said Act ;

b) this Hon'ble Court be pleased to issue appropriate writ for directing the Respondent No.2 to

incorporate the name of the Petitioner in the Award dated 31/3/2018, being a person entitled to receive compensation in respect of the acquisition of his property bearing Survey No.53, Hissa No.(part) admeasuring about 40.4 Are of Village Rayate ;

c) this Hon'ble Court be pleased to appropriate writ or direction restraining the Respondent No.2 to pay the compensation of the land bearing Survey No.53, Hissa No. (part) admeasuring about 40.4 Are of Village Rayate to the Respondent No. 4 ;

d) pending the hearing and final disposal of this Writ Petition, the Respondent Nos. 1 and 2 be restrained from making payment of the compensation of the acquired land to the Respondent No.4 in terms of the Award dated 31/3/2018 in respect of the property owned by the Petitioner being Survey No.53, Hissa No.(part) admeasuring about 40.4 Are of Village Rayate ;

e) interim and ad-interim relief in terms of prayer clause (d) above may kindly be granted ;

d) for such other and further reliefs as this Hon'ble Court may deem fit and proper be granted.”

2. Learned Counsel for the petitioner submits that the Competent Authority - SDO Kalyan duly empowered under

Section 3G of the National Highways Act, 1956, has determined the compensation by an Award dated 31/3/2018. The compensation is granted in respect of land ad-measuring about 40.4 Are, Survey No. 53, Hissa No.3, Mauje Rayate, Taluka - Kalyan, District – Thane.

3. The petitioner claims to be a person entitled to receive entire compensation as according to the petitioner he has purchased the said property. He submitted that he has filed Objection Application addressed to SDO - Competent Authority on 25th January, 2018. The Competent Authority has referred the matter to higher authority which according to learned Counsel is contrary to the law.

4. Learned AGP makes a statement that along with the present petitioner, other persons whose names are found in revenue record and the names which are included in the Award dated 31 March, 2018, will also be given notice under National Highways Act, 1956 in respect of the payment of compensation.

5. We direct the Competent Authority to deal with the objection of the petitioner in accordance with the provisions of Section 3H of the National Highways Act, 1956 on its own merits. We do not express any opinion on the merits of the claim of the petitioner.

6. In this view of the matter, the Petition is disposed of.

(M.S. KARNIK, J.)

(CHIEF JUSTICE)