

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

**WRIT PETITION NO. 14159 OF 2018**

Mahanandabai Punjabrao Kokre  
and others .. Petitioners

**Versus**

The State of Maharashtra and others .. Respondents

Shri Sunil V. Kurundkar, Advocate for Petitioners.

Shri S. P. Tiwari, A.G.P. for Respondent Nos. 1 and 2.

Shri S. S. Gangakhedkar, Advocate for Respondent Nos. 3 and 4.

**WITH  
WRIT PETITION NO. 1235 OF 2019**

Mahanandabai Punjabrao Kokre  
and others .. Petitioners

**Versus**

The State of Maharashtra and others .. Respondents

Shri Sunil V. Kurundkar, Advocate for Petitioners.

Shri S. P. Tiwari, A.G.P. for Respondent Nos. 1 and 2.

Shri S. S. Gangakhedkar, Advocate for Respondent Nos. 3 and 4.

**CORAM : S. V. GANGAPURWALA AND  
ANIL S. KILOR, JJ.**

**DATE : 18TH SEPTEMBER, 2019.**

**FINAL ORDER :**

. The objection filed by the petitioners under Section 3-H(4)

of the National Highways Act is rejected in Writ Petition No. 14159 of 2018 and in another writ petition final order has not been passed by the Competent authority. The parties in both the writ petitions are same.

2. Mr. Kurundkar, the learned advocate for petitioners submits that, the lands acquired are ancestral properties of the petitioners and respondents. The petitioners are the daughters of the respondent No. 3 and sisters of the respondent No. 4. The petitioners have also filed suit for partition and separate possession and same is pending before the Civil Court. According to the learned counsel, as the properties are ancestral properties, the petitioners being daughters are entitled to equal share as per Section 6 of the Hindu Succession Act.

2. Mr. Gangakhedkar, the learned counsel for respondent Nos. 3 and 4 submits that, the competent authority has rightly decided the issue.

3. The relationship amongst the parties is not disputed. Nothing has been placed on record to substantiate that the writ properties are self acquired properties. The suit for partition and separate possession is also pending. It appears to be case of triable issue. Bonafide dispute about the title exists. In such case, the competent authority is required to refer the dispute to

the principal court of original civil jurisdiction.

4. In the light of the above, the impugned orders are quashed and set aside. The competent authority shall refer the dispute amongst the parties to the concerned principal court of original civil jurisdiction. The amount not disbursed to the parties shall be transmitted to the principal court of original civil jurisdiction and the same shall be disbursed only after the decision in the dispute. Some amount has already been withdrawn by the respondent Nos. 3 and 4. In case some amount is withdrawn by the respondent Nos. 3 and 4 same shall be subject to the decision of the principal court of original civil jurisdiction.

5. With these observations the writ petitions are disposed of. No costs.

**[ANIL S. KILOR, J.]**

**[S. V. GANGAPURWALA, J.]**

*bsb / Sept. 19*