

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

WRIT PETITION NO. 1874 OF 2018

Bhamabai Maruti Pawar and another .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri Ramesh V. Naiknavare, Advocate for Petitioners.
Shri P. K. Lakhotiya, A.G.P. for the Respondent No. 1.
Shri D. S. Manorkar, Advocate for the Respondent No. 3.
Shri K. K. Kulkarni, Advocate for the Respondent No. 4.

**CORAM : S. V. GANGAPURWALA AND
A. M. DHAVAL, JJ.
DATE : 22ND APRIL, 2019.**

FINAL ORDER :

. Mr. Naiknavare, the learned advocate for petitioners submits that, the petitioners had filed objection U/Sec. 3(H)(4) of the National Highways Act before the competent authority. Same is rejected without referring the same to the principal court of original civil jurisdiction. According to the learned counsel, the petitioners have filed civil suit bearing R.C.S. No. 28 of 2016 claiming their rights over the writ land acquired. Present respondent No. 4 is also defendant No. 3 in the said civil suit. Amount has been disbursed to the respondent No. 4 by the competent authority without considering the claim of petitioners.

2. Mr. Kulkarni, the learned advocate for the respondent No. 4 submits that, the petitioners are not at all concerned with the family of the respondent No. 4. The respondent No. 4 has given the details as to how the petitioners are unconcerned with the writ land. The learned counsel further submits that, there is typographical mistake in the award. The respondent No. 4 is disbursed with an amount of Rs. 1,01,54,520/-.

3. The matter with regard to rights of the parties is adjudicated before the Civil Court in R.C.S. No. 28 of 2016 pending before the Civil Judge Junior Division, Tuljapur.

4. As the lis between the parties is pending, it would not be appropriate for us to observe anything on merits of the matter. It would be for the Court where suit is pending to decide the suit on merits.

5. The amount that is disbursed to the respondent No. 4 pursuant to award passed in respect of writ land would be subject to decision of the Civil Court in R.C.S. No. 28 of 2016 pending between the parties. In case the Civil Court decides in favour of petitioners, then the respondent No. 4 will be liable to reimburse the amount to petitioners to the extent of amount as would be decided by the Civil Court.

5, In view of the above, the writ petition is disposed of. No costs.

[A. M. DHAVALA, J.]

[S. V. GANGAPURWALA, J.]

bsb/April 19