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

WRIT PETITION NO. 4245 OF 2019

Ashok S/o Gangaram Chilme
Age 60 years,, Occ.Agriculture
R/o Budhoda, Tq.Ausa,
District Latur

..PETITIONER

VERSUS

1. Union of India
Through Secretary
Road Transport and Highways of India,
New Delhi
2. The Project Director
National Highway No.361,
Bharadwaj, Venkatadri Nagar,
Near Ayodhya Nagari,
Taroda (kd) Nanded,
District Nanded
3. The Collector,
Collector Office, Latur
4. The Competent Authority of NH-361
and Sub-Divisional Officer/
Land Acquisition Officer,
Renapur-Ausa,
Office at Old Collector Office
Latur District Latur
5. Harishchandra S/o Gangaram Chilme
Age 57 years, Occ.Agriculture
R/o Budhoda, Tq.Ausa,
Dist. Latur
6. Angad s/o Gangaram Chilme
Age 79 years, Occu.Agriculture
R/o Budhoda, Tq.Ausa,
Dist. Latur.

..RESPONDENTS

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Mr S. B. Gastagar, Advocate for Petitioner;
Mrs D. S. Jape, A.G.P. for respondent No. 2 and 3;
Mr R. B. Bhosale, Advocate for respondent Nos. 1 and 4;
Mr A. N. Sabnis, Advocate for respondent No.5

**CORAM : PRASANNA B. VARALE
AND
NITIN W. SAMBRE, JJ.**

DATE : 2ND APRIL, 2019

ORAL ORDER:

At the behest of the petitioner, Regular Civil Suit No. 162 of 2018 is pending on the file of the Civil Judge Senior Division, Latur in relation to the land which is subjected to the acquisition pursuant to the provisions of National Highways Act, 1956 (hereinafter referred to as 'said Act' for sake of brevity).

2. The present petitioner, plaintiff - in the Civil Suit has objected to the apportionment in the light of the provisions of Section 3 (H) of the said Act. Considering the fact that the prayer for grant of temporary injunction restraining the authority under the National Highways Act from releasing amount in favour of defendant in whose favour relinquishment deed is executed, was already rejected. The authority under Section 3(H) of the said Act passed the impugned order permitting withdrawal of the amount in favour of the respondents. As such, this petition.

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3. Having heard the respective Counsel, what can be noticed is, the order impugned dated 3rd September, 2018, permitting the withdrawal of the amount in favour of the respondents by the Sub-Divisional Officer, pursuant to the provisions of Section 3(H), sub-section (3) is erroneous, as sub section (4) of Section 3(H) of the said Act provides for referring the dispute to Principal Civil Court of original jurisdiction in case there exist dispute as regards the right to apportionment of the compensation amount deposited. Sub Section (3) and sub section (4) of Section 3 (H) of the National Highways Act 1956 reads thus:

"(3) Where several persons claim to be interested in the amount deposited under sub-section (1), the competent authority shall determine the persons who in its opinion are entitled to receive the amount payable to each of them.

(4) If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land is situated."

4. In the wake of above, in our opinion, the order impugned dated 3rd September, 2018 passed by the Sub-Divisional Officer in exercise of powers under section 3(H) of National Highways Act 1956 is in excess of the jurisdiction.

5. That being so, the order impugned is hereby quashed and set-aside.

6. The Sub-Divisional Officer who has passed the impugned order is

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hereby directed to refer the dispute in question to the Principal Civil Court of original jurisdiction pursuant to sub section (4) of Section 3 (H) of the National Highways Act within 4 weeks from the date of production of copy of order of this Court.

7. The parties hereto agree that upon such reference is being received before the Civil Court, they shall complete their pleadings within a period of six weeks.

8. Needless to say that, it shall be open for Civil Court to issue fresh notice to such parties who have not appeared before the said Court. The Civil Court shall decide the aforesaid reference made by the Sub-Divisional Officer within a period of six months from the date of receipt of the said reference.

9. Needless to clarify that the Sub-Divisional Officer shall also remit the amount to the competent Civil Court. It is further clarified that the Court taking up the civil suit shall also take up the application referred to under Section 3(H) of the National Highways Act, 1956.

With above observations, the petition is disposed of.

(**NITIN W. SAMBRE**)
JUDGE

(**PRASANNA B. VARALE**)
JUDGE