

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

32 WRIT PETITION NO.7013 OF 2018

DHANAJI PANDURANG PAWAR ..PETITIONER

VERSUS

THE UNION OF INDIA AND OTHERS ..RESPONDENTS

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Mr. Sanjaykumar B. Bhosale, Advocate for the
Petitioner.

Mr. S. K. Tambe, AGP for Respondents-State.

Mr. A. B. Dhongade, Standing Counsel, Advocate for
Respondent Nos.1 and 3.

Mr. V. N. Solanke h/f Mr. Virendra T. Sakolkar,
Advocate for Respondent No.2.

Mr. P. S. Chavan, Advocate for Respondent No.5.

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**CORAM : S. V. GANGAPURWALA &
A. M. DHAVALA, JJ.**

DATED : 10th APRIL, 2019.

PER COURT:-

1. The learned counsel for the petitioner submits that the Award requires to be modified to the extent of tin-shed situated at land Gut No.538. The learned counsel submits that the petitioner is concerned to the extent of tin-shed and not the land. However, the amount of compensation for tin-shed is also awarded to respondent no.5 to which he is not entitled to. The petitioner has raised an objection before the Competent Authority under

Section 3-H(4) of the National Highway Authority Act, 1956. However, without deciding the said objection the amount has been disbursed.

2. The learned counsel for respondent no.5 submits that the objection has been decided and rejected by the Competent Authority on 18.06.2018.

3. In fact where the dispute of such a nature arises that the petitioner is claiming to be the tenant over the tin-shed and claims his right over it to claim the compensation, the Competent Authority ought to have referred the matter to the Court of Original Civil Jurisdiction as per the provisions of Section 3-H (4) of the National Highway Authority Act, 1956.

4. In light of the above, the impugned order is quashed and set aside. The Competent Authority shall refer the matter/dispute to the Principal Court of Original Civil Jurisdiction. The amount of compensation to the extent of tin-shed withdrawn by the respondent no.5 shall be subject to the decision of the Principal Court of Original Civil Jurisdiction. The respondent no.5 shall file an undertaking with the Principal Court of Original Civil Jurisdiction where the matter would be referred that in case the Principal Court of Original Civil Jurisdiction decides in favour of the present petitioner then, respondent no.5 would

deposit back the amount of compensation to the extent of tin-shed.

5. Writ Petition is disposed of. No costs.

(A. M. DHAVALÉ)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

Devendra/April-19