

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

WRIT PETITION NO. 4915 OF 2018

Bhagwan Bapurao Hake .. Petitioner

Versus

The Union of India and others .. Respondents

Shri M. B. Kolpe, Advocate h/f Shri N. D. Kendre, Advocate for the Petitioner.

Shri S. B. Deshpande, A.S.G. for the Respondent No. 1.

Shri D. S. Manorkar, Advocate for the Respondent No. 2.

Shri R. B. Bagul, A.G.P. for the Respondent No. 4.

Shri Avinash D. Hande, A.G.P. for the Respondent No. 6.

**CORAM : S. V. GANGAPURWALA AND
A. M. DHAVAL, JJ.**

DATE : 12TH MARCH, 2019.

FINAL ORDER :

. The petitioner is challenging the order passed by the competent authority under Section 3(H)(4) of the National Highways Act and in the said matter the authority has rejected the objection of the petitioner.

2. The learned counsel for the petitioner submits that, the petitioner is owner of the property having purchased it under registered sale deed dated 31st July, 1990. In the revenue record name of the deceased son of the petitioner was recorded. Mere

recording name in the revenue record would not give title to the deceased son of the petitioner. The competent authority has erroneously rejected the objection.

3. The learned counsel appearing for the respondent No. 6 submits that, on the date of acquisition the land was standing in the name of the deceased husband of the respondent No. 6. As such objection is rightly rejected.

4. It appears that, even mother of the deceased Laxmibai is alive being respondent No. 5 in the present petition. If it is presumed to be joint family property, then there would be share to the father, mother of the deceased Rahul along with widow of the deceased Rahul. The sale deed appears in the name of the petitioner as is produced on record. The issue of title could not have been decided by the competent authority U/Sec. 3(H)(4) of the National Highways Act. Same ought to have been referred to the Court of original Civil jurisdiction.

5. In the light of the above, the impugned order is quashed and set aside. The competent authority shall refer the dispute to the competent Court of original civil jurisdiction within a period of 15 days from today. The amount shall also be transmitted by the competent authority to the Court of original civil jurisdiction where the proceedings are transmitted. The said amount shall

be disbursed as per the order that would be passed by the Civil Court. The Civil Court shall endeavour to decide the dispute expeditiously.

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

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]

bsb / March 19