

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

981 WRIT PETITION NO.7040 OF 2019

VANITA BHAGWANRAO JADHAV AND OTHERS
VERSUS
THE SUB DIVISIONAL OFFICER AUSA RENAPUR AND
OTHERS

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Mr. H.V.Patil, Advocate for Petitioners.
Mr. S.B.Yawalkar, AGP for Respondents-State.
Mr. S.S.Deve, Advocate for Respondent No.1.
Mr. S.P.Urgunde, Advocate for Respondent Nos.2, 4, 8 & 9.

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**CORAM : S.V. GANGAPURWALA AND
MANGESH S. PATIL, JJ.**

DATE : 14th June, 2019

PER COURT :-

1. Mr. Patil, the learned counsel for the petitioners submits that the petitioners have filed civil suit for partition and separate possession against the present respondents. The same is pending. Only Exh.35 has been rejected. The learned counsel submits that the land has been acquired under the provisions of National Highways Act and the award is passed. The petitioners had filed objection under Section 3H(4) of the National Highways Act. The same is rejected only on the ground that the application for temporary injunction filed by the petitioners is rejected. The learned

counsel submits that the petitioners have every right and interest in the property acquired.

2. Mr. Urgunde, the learned counsel appears for respondent Nos.2, 4, 8 and 9 and submits that these respondent Nos.2, 4, 8 and 9 are only contesting respondents. The amount has been directed to be paid to respondent Nos.2 and 4.

3. Mr. Deve, the learned counsel appears for Respondent No.1.

4. It appears that the dispute with regard to the title of ownership exists between the parties and the civil suit is already pending before the Court of Civil Judge, Junior Division, Ausa.

5. It appears that the Civil Court is seized with the matter. There appears to be a dispute with regard to the share of the parties.

6. In light of the above, it would be appropriate to refer the dispute before the Court of original civil jurisdiction as is contemplated under Section 3H(4) of the National Highways Act. In light of the above, the impugned order is quashed

and set aside. The competent authority shall refer the dispute to the Court of ordinary original civil jurisdiction. The amount, which has been directed to be paid to respondent Nos.2 and 4 and is withdrawn by them, shall be subject to the decision of the dispute that would be decided by the Principal Court of original civil jurisdiction upon reference being made by the competent authority under the present order.

7. Writ Petition accordingly disposed of. No costs.

(MANGESH S. PATIL, J.)

(S.V. GANGAPURWALA, J.)

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