

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.8345 OF 2018

Dattarao Satwaji Mule & others

Petitioners

Versus

The Union of India & others

Respondents

Mr.R.B.Narwade Patil, advocate for the petitioners.
Mr.S.B.Pulkundwar, AGP for Respondents No.2.
Mr.D.G.Nagode, Standing Counsel for Respondents No.1 & 3.
Mr.V.T.Sakolkar, advocate for Respondent No.4.
Mr.O.B.Boinwad, advocate for Respondents No.6 to 8.

**CORAM : S.V.GANGAPURWALA &
AVINASH G. GHAROTE, J J.**
DATE : 15th November, 2019

PER COURT:

1 The objection filed by the petitioners under Section 3H(4) of the National Highways Act is rejected.

2 We have heard learned Counsel for the petitioners and learned Counsel for respective respondents.

3 Petitioners claim share in the amount of compensation awarded, on the ground that petitioners are also owners of the subject land. A Civil Suit is filed by the petitioners bearing RCS No.190 of 2018 and also by the sisters bearing RCS No.213 of 2018.

4 Mr.Nagargoje, learned Counsel for Respondent No.3 and learned Counsel for Respondents No.6 and 8, submit that the amount

has already been disbursed to Respondents No.6 to 8.

5 It appears that the dispute concerning share in the property is already pending before the Civil Court. The same is not yet decided and is *sub judice*. In such a scenario, when the parties are from the same family and the dispute amongst themselves is *sub judice* before the Civil Court, it would be appropriate for the competent authority to refer the dispute to the concerned Principal Court of Original Civil Jurisdiction.

6 In view of that, the impugned order is quashed and set aside. The competent authority shall refer the dispute to the concerned Principal Court of Original Civil Jurisdiction. The amount, that has been withdrawn by Respondents No.6 to 8, shall be subject to the decision of the Court where the dispute is referred to.

7 Writ Petition is disposed of accordingly. No costs.

AVINASH G. GHAROTE
JUDGE

S.V.GANGAPURWALA
JUDGE

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