

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10897 OF 2019

KUMAR SHANKAR KAVADE
VERSUS
PRAKASH SHANKAR KAVADE AND ANOTHER

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Advocate for Petitioner : Shri Bramhankar R.C.
h/f Shri Jadhav N.L.
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CORAM : RAVINDRA V. GHUGE, J.
Dated: September 05, 2019
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PER COURT :-

1. On 3.9.2019, the following order was passed:-

"1 The petitioner is aggrieved by the order dated 24.06.2019 passed by the learned Civil Judge, Senior Division, Bhoom in LAR Direction Application No.173/2017, which was referred to the said court by the competent authority under Section 3(H)(4) of the National Highways Act.

2 The petitioner was not an objector or disputant right upto the section 3(H)(4) stage. He has moved an application exhibit 44 before the Civil Court claiming leave to participate in the proceedings.

3 The learned advocate for the petitioner seeks time to research as to whether, there is any judicial pronouncement

permitting such person to intervene when he has not been a disputant or objector in any manner whatsoever until the stage at section 3(H)(4).

4 *Stand over to 05.09.2019 (Thursday) for 'passing orders'.*"

2. By the impugned order dated 26.4.2019, the learned Civil Court has declined to entertain application Exhibit 44 filed by the petitioner seeking addition to the proceedings as a defendant, on the ground that the Civil Court derives its jurisdiction to deal with a case of apportionment of compensation only if the matter is referred to the Court under Section 3H(4) of the National Highways Act.

3. The learned Advocate for the petitioner submits that despite his best efforts, he could not come across any provision in law or a judicial pronouncement, which would permit a third party to approach the Civil Court for being added as a defendant, when the said party has not been before the competent authority in the entire process of acquisition and apportionment of compensation till the stage under Section 3H(4) of the said Act.

4. In view of the above, this petition, being devoid of merits is, therefore, dismissed. It is, however, made clear that if the petitioner

has any remedy as is permissible in law, for the redressal of his grievance, he would be at liberty to avail of the said remedy.

(RAVINDRA V. GHUGE, J.)

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