

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.15487 OF 2019

Bandu S/o Dattu Chavan

Petitioner

Versus

Nanda w/o Mahadeo Chavan
& others

Respondents

Mr. A.A. Shelke, Advocate for the petitioner.

Mr. S.R. Yadav, AGP for respondents no. 5 and 6.

CORAM : Ravindra V.Ghuge, J.

DATE : 19th December, 2019.

PER COURT :

1. The petitioner-original defendant No. 9 in Regular Civil Suit No. 432/2015 is aggrieved by the order dated 31.07.2018, by which, application Exhibit 94 filed by him seeking apportionment and withdrawal of compensation amount, has been rejected.

2. I have considered the submissions of the learned Advocate for the petitioner and I have gone through the four grounds formulated in the memo of the petition. It is contended that the petitioner is a bonafide purchaser and he, therefore, has a right to

the share of compensation amount with regard to the property that has gone into acquisition. He concedes that he is not a family member, who owned the land originally.

3. I find from the impugned order that the trial Court has gone through the record available before it and has noted that Misc. Civil Application No. 08/2018, filed by the original plaintiff, is pending before the First Appellate Court. The joint family properties are subject matter of acquisition. Shares are yet to be partitioned and title and interest of the litigating sides are yet to be declared in the suit. It is uncertain as to whose share has been purchased by the petitioner/defendant No. 9 and what would be the quantum of compensation that would be payable to the vendor of the petitioner. The trial Court has also recorded that it would be risky to grant withdrawal of amount at this stage without crystalising the rights of the parties and that, after the rights are decided, the successful party would get its fruits. The money is deposited in the Court and would gather interest.

4. I do not find that the impugned order could be termed as being perverse or erroneous. This petition is, therefore, dismissed.

5. At this stage, the learned counsel for the petitioner prays for expediting Misc. Civil Appeal No. 08/2018. Considering the said request and the fact that the compensation amount, payable on account of the acquisition of the agricultural land is lying with the trial Court, the appellate Court is requested to decide Misc. Civil Appeal no. 08/2018 as expeditiously as possible, and in any case, on or before 30.04.2020.

Ravindra V.Ghuge
Judge

dyb