

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

WRIT PETITION NO. 10704 OF 2019

**NAGNATH MALKARJUN HUNDEKAR
VERSUS
MANDABAI MALKARJUN HUNDEKAR AND OTHERS**

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Advocate for the Petitioner : Shri M. V. Ghatge
Advocate for Respondent Nos. 2 and 7 : Shri S. R. Bagat
Advocate for Respondent No. 8 : Shri A. B. Dhongade
AGP for Respondent No. 9 : Shri S. R. Yadav - Lonikar

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 28th AUGUST, 2019.

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PER COURT :

1. This matter was not on board. An urgency was expressed and hence taken on the production board.
2. I have heard the learned Advocates appearing on behalf of the petitioner, respondent Nos. 2, 7 and 8 and the learned AGP on behalf of respondent No. 9.
3. The petitioner is aggrieved that he is unable to get an ad interim protective order from the Appellate Court in Misc. Civil Appeal No. 37/2019. It is informed that the issue is about

apportionment of the compensation towards acquisition of land under the National Highways Act. At the stage under Section 3H(4), the petitioner had raised certain objections and the competent authority has simply rejected the objections by communication dated 06/08/2019. Prior thereto, the petitioner had preferred Regular Civil Suit No. 466/2018 and has sought ad interim protection. The application for temporary injunction Exhibit 5 was rejected by order dated 15/03/2019 which prompted the petitioner to prefer the Miscellaneous Civil Appeal before the learned District Judge.

4. It is informed that the proceedings before the Appellate Court are now posted on 3/10/2019.

5. The learned Advocate appearing on behalf of the acquiring body / respondent No.8 submits that the amount to be apportioned is available and can be disbursed any moment. He is unaware as to whether the amount has been disbursed as on date, but submits in fairness that the said amount can be preserved for such time as this Court may suggest so that the Miscellaneous Civil Appeal could be heard.

6. In view of the above, this petition is disposed off. It is expected that all the parties before the Appellate Court would address the Court on MCA No. 37/2019, finally. They are at liberty to file their written notes of arguments.

7. The Appellate Court would decide the said proceedings as expeditiously as possible and in any case on or before 19/10/2019. The statement made by respondent No. 8 that if the amount is not disbursed, it would be preserved and disbursement would be effected after the order of the Appellate Court in MCA No. 37/2019, is recorded.

(RAVINDRA V. GHUGE, J.)

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