

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

121 WRIT PETITION NO.10682 OF 2018

ARUN BHIMRAO GHORPADE .. Petitioner
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS .. Respondents

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Advocate for Petitioner : Shri Krishna K. Kulkarni
AGP for Respondents No.1 & 2 : Shri S.G. Karlekar
Advocate for Respondent No.3 : Shri D.S. Manorkar
Advocate for Respondent No.4 : Shri S.S. Choudhary
Advocate for Respondent Nos.5A to 5C : Shri A.S. Deshmukh

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**CORAM: S. V. GANGAPURWALA &
AVINASH G. GHAROTE, JJ.**

DATE : NOVEMBER 19, 2019

PER COURT : -

1. The objection raised by the petitioner under Section 3H (4) of The National Highways Act, 1956 is rejected.

2. We have heard the learned counsel for the parties. It is not disputed that the Award in respect of land is passed in the year 2014 and the respondents no.4 and 5 have been disbursed the amount of compensation pursuant to the Award of 2014. Subsequently, an award for structure upon the said land has been passed in the year 2016. Upon objection raised by the petitioner, the competent authority has referred the said dispute to the Civil Court

along with the amount.

3. Thereafter, the amount of compensation in respect of the land has been re-determined and enhanced compensation of Rs.23,00,000/- is to be paid. The petitioner has raised an objection to the same. The objection is rejected.

4. It appears that, the petitioner has filed a suit for partition and separate possession and the same is pending. In the said suit for partition and separate possession, the petitioner claimed relief with regard to the amount of Rs.36,00,000/- disbursed pursuant to the award of 2014.

5. As observed above, the award is passed in the year 2016 with regard to the structure upon the said land and the dispute amongst the parties is already referred to the Civil Court by the competent authority along with the amount.

6. The petitioner is claiming share to the extent of half. The petitioner is not claiming interest beyond half share. As the dispute is already referred to the Civil Court for structure, we pass the following order.

ORDER

- (i) The impugned order is quashed and set aside.
- (ii) The Competent Authority shall refer the dispute amongst the parties to the Principal Court of original Civil Jurisdiction, Osmanabad.
- (iii) The respondents no.4 and 5 are permitted to withdraw 50% of the amount as determined and remaining 50% will be transmitted to the Civil Court along with the reference. Depending upon the decision given by the Reference Court, the Reference Court shall direct disbursement of the said 50% of the amount transmitted to the Civil Court.
- (iv) With these observations, the writ petition stands disposed of.

[AVINASH G. GHAROTE]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

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