

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11418 OF 2019

SHIVAJI DIGAMBARRAO GAWANDE

...PETITIONER

VERSUS

THE STATE OF MAHRASHTRA
AND OTHERS

...RESPONDENTS

Mr. M.A.Kulkarni, Advocate for Petitioner

Mr. A.B. Girase, Government Pleader for Respondents-State

**CORAM : S. V. GANGAPURWALA AND
ANIL S. KILOR, JJ.**

DATE : 19th SEPTEMBER, 2019

ORAL ORDER:

1. The petitioner is challenging the order passed by the competent authority under section 3H (4) of the National Highways Act. The Authority has directed the parties to get the matter decided by the competent Civil Court.

2. We have heard the learned Counsel for the petitioner. According to the learned Counsel, the respondent No. 2 does not have any right of title or interest in the constructed portion. The

petitioner has been awarded the compensation under the Award and the compensation for the open land has already been received by the petitioner. In the revenue record also, the name of the respondent No. 2 is not recorded. The petitioner has denied about the rent agreement.

3. It appears that there is dispute between the parties. The respondent No. 2 has contended that he has erected the tin shed on the basis of lease. The issue is triable issue. In light of that and in view of the provisions under section 3H(4) of the National Highways Act, the competent authority would be justified in refereeing the dispute to the Civil Court.

4. The order of the competent authority is required to be modified to the extent that the competent authority shall refer the dispute to the Principal Civil Court of original jurisdiction instead of directing parties to approach the Civil Court.

5. The competent authority shall refer the dispute between the parties to the concerned Principal Court of original civil jurisdiction. The amount shall be transmitted to the concerned Principal Court of original civil jurisdiction. The said dispute be transmitted by the competent authority within a period of four weeks from today. The Principal Court of original jurisdiction to whom proceedings are referred, shall decide the same expeditiously in

accordance with the procedure and after getting opportunity to all the parties.

6. The writ petition is disposed of. No costs.

[ANIL S.KILOR]
JUDGE

[S.V.GANGAPURWALA]
JUDGE

mta