

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

WRIT PETITION NO. 11580 OF 2019

Jaspalsingh s/o Hardayalsingh Ghai and Others

.. Petitioners

Versus

The Competent Authority, Land Acquisition
Aurangabad and Others

.. Respondents

Mr. A. B. Gaikwad (Patil), Advocate for Petitioners.

Mr. S. P. Tiwari, AGP for Respondents-State.

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

DATED : 23rd SEPTEMBER, 2019.

PER COURT:-

1. Mr. Gaikwad, learned Counsel for the petitioners submits that the competent authority without considering the factum of the matter in its correct perspective has mechanically directed the dispute to be referred to the Principal Court of Original Civil Jurisdiction. The civil suit filed by the petitioners against the respondents is pending before the Civil Judge, Senior Division, Aurangabad.

2. Though the decree is passed in favour of respondents, the same is subject matter of challenge. The measurement in execution has been carried out after the property vests with the Government. This aspect has not been considered by the competent authority. After vesting of the property with the State, no further process can be carried out. The learned Counsel submits

that the measurement carried out after vesting of the property in the State has been challenged by the petitioners by paying fees for measurement. The same is pending.

3. It is not disputed that the respondent No. 4 is armed with decree of the Civil Court. The competent authority would not be in a position to override the decree of the Civil Court and steps taken pursuant to the decree. If the petitioners have any grievance with regard to the decree or the further process pursuant to the decree, the petitioners have got a remedy to assail the same. The petitioners have availed the said remedy and the same is pending. The civil suit filed by the petitioners is also pending before the Civil Judge, Senior Division.

4. Considering the fact that, there are triable issues, the competent authority under Section 3H(4) of the National Highways Act has rightly referred the matter to the Principal Court of Original Civil Jurisdiction where the dispute is referred. Each and every party will be entitled to put forth their stand, which naturally would be considered by the Principal Court of Original Civil Jurisdiction on its own merits.

5. Writ Petition accordingly is disposed of. No costs.

(ANIL S. KILOR)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

PS.B.