

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

922 WRIT PETITION NO.12101 OF 2019

VITTHALRAO NARAYANRAO DINDE

VERSUS

THE SUB DIVISIONAL OFFICER KALAMNURI AND ANOTHER

...

Advocate for Petitioner : Mr Patil Hanmant V. And Mr Amol
A Bhagat

AGP for Respondents State: Mrs G L Deshpande

Advocate for Respondent No.1 : Mr R R Bangar

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

DATE : 3rd October, 2019

ORDER:

1. The objection filed by the petitioner under section 3(H)(4) of the National Highways Act was rejected. Learned counsel submits that merely on the basis of mutation entry, respondent No.2 is claiming ownership of the property. The competent authority failed to consider that mere entry in the revenue record does not confer title. The revenue entries meant only for fiscal purposes. The partition has never been proved by the respondent. In view of that, the matter was required to be referred to the principal court of original civil jurisdiction.

2. We have considered the order passed by the competent authority. It is not that in each and every case where objection has been submitted under section 3(H)(4) of the National Highways Act, the competent authority

is required to refer the matter to the Civil Court. In the present case, decree of the Civil Court was placed on record before the competent authority. The petitioner had filed Regular Civil Suit No.102/2004. The same is dismissed on 19th July, 2008 by the learned Civil Judge Junior Division, Kalamnuri. One of the issue in the said suit was whether the plaintiff proves his ownership over the suit property. The Civil Court had decided the issue in the negative.

3. It is not disputed by the learned counsel for the petitioner that the property acquired was suit property in R.C.S. No.102/2004. As the competent Court i.e. Civil judge has already adjudicated upon the right of the parties and it has been held that the petitioner is not owner of the suit property, then the petitioner could not have claimed any right in view of the decree of the Civil Court.

4. In light of above, no case for interference is made out. Writ petition disposed of. No costs.

(ANIL S. KILOR, J.)

(S.V.GANGAPURWALA, J.)

JPC