

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 12004 OF 2018

WITH

CA/13524/2018 IN WP/12004/2018

WITH

CA/13527/2018 IN WP/12004/2018

SIKANDAR BANSI TARAYYAWALE

VERSUS

UNION OF INDIA AND OTHERS

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Advocate for Petitioner : Mr. Langhe Vijay R.

Advocate for Respondent No. 1 :

Ms. Sudha S. Kulthe

AGP for Respondents No. 2 & 3 : Mr. S. G. Karlekar

Advocate for Intervenor :

Mr. N. E. Deshmukh h/f. Mr. K. H. Surve

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CORAM: S. V. GANGAPURWALA &

ANIL S. KILOR, JJ.

DATE: 03rd SEPTEMBER, 2019

PER COURT:

1. We have heard Mr. Langhe, learned counsel for the petitioner and Mr. Deshmukh, learned counsel for the intervenor.

2. Amongst the various grounds raised by the petitioner one of the ground agitated by the learned counsel for the petitioner is that, while allowing the objection filed by the intervenor

U/Sec. 3H(4) of the National Highways Act, 1956 the competent authority did not hear the petitioner.

3. The objection U/Sec. 3H(4) of the National Highways Act, 1956 has to be decided after hearing the parties. Reference is also made to the Special Civil Suit bearing no. 3 of 2011, filed by the intervenor and others against the present petitioner and others wherein the suit for specific performance of contract is decreed. It is submitted that the petitioner has filed application for setting aside the ex-parte decree.

4. We would not enter into the said debate. It is submitted that the impugned order is passed without hearing the petitioner. The said fact is also not disputed by the intervenor.

5. In the light of above, we set aside the impugned order and remit the matter to the competent authority for deciding the objection filed by the intervenor U/Sec. 3H(4) of the

National Highways Act, 1956 afresh.

6. The parties shall appear before the competent authority on 16.09.2019 and put forth their stand before the competent authority. The parties are entitled to file say and the documents on which they rely. The competent authority shall decide the said objection expeditiously and preferably within a period of six (06) weeks from the date the party appear before him. As date for hearing is already given by us, the competent authority is not required to issue separate notice to the parties.

7. The amount of Rs.03,38,39,601/- shall remain in the account of the petitioner or the relatives to which the petitioner has transferred the said amount. The said amount shall be retained as it is till the order is passed by the competent authority and for further period of fifteen (15) days from the date of the order of the competent authority.

8. All contentions of respective parties on merits are kept open. The parties may raise all possible pleas available to them which the competent authority would consider.

9. Writ Petition stands disposed of accordingly.
No costs.

10. In view of disposal of the writ petition, the civil applications also stand disposed of.

[ANIL S. KILOR, J.] [S. V. GANGAPURWALA, J.]

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