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

WRIT PETITION NO.12729 OF 2018

Pandurang Manga Bhil
Age 60 years, Occu. Agriculture,
R/o Chopdai, Taluka Amalner,
District Jalgaon

... PETITIONER

VERSUS

1. The Learned Collector,
Dhule, Tq. & Dist. Dhule
2. Competent Authority,
National Highway Tribunal (NH-6)
and/ or The Learned Deputy Collector,
Land Acquisition (General),
Dhule, Tq. & Dist. Dhule
3. Ramesh Punju Bhil,
Age major, Occu. Agriculture,
R/o Vitthal Nagar, Jalgaon
Tq. & Dist. Jalgaon

... RESPONDENTS

.....
Shri L.S. Mahajan, Advocate for petitioner
Shri P.M. Kulkarni, A.G.P. for respondent No.1
Shri S.B. Deshpande, Assistant Solicitor General for R.No.2
Shri G.V. Wani, Advocate for respondent No.3
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CORAM: R.G. AVACHAT, J.

Date of reserving judgment : 26th August, 2019

Date of pronouncing judgment : 9th September, 2019

J U D G M E N T :

Heard learned counsel for the parties. Rule. Rule made returnable forthwith and heard finally with the consent of learned counsel of the parties.

2. The main prayer in this Writ Petition is for a direction to the respondent No.2 to act in accordance with provisions of Section 3-H(4) of the National Highways Act, 1956 (for short the Act).

FACTS

3. Some portion of the land, bearing Gat No.57, situated at village Kasvihir, Taluka and District Dhule came to be acquired for construction of a National Highway. Necessarily, owners of the lands acquired became entitled for compensation. The competent authority determined the compensation. The petitioner herein claims to have right, title and interest in the land acquired. Thus, he claims to be entitled to have share in the compensation. The petitioner, therefore, approached the competent authority, the respondent No.2 herein. The petitioner's claim came to be turned

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down on the ground that the petitioner has relinquished his right, title and interest in the land way back in 2010.

4. The relevant provisions of the Act need to be referred to.

Section 3-G of the Act speaks of determination of amount payable as compensation whereas Section 3-H pertains to deposit and payment of amount. For better appreciation, Section 3-H is reproduced hereinbelow :-

“3-H. Deposit and payment of amount :--

(1) The amount determined under Section 3-G shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government, with the competent authority before taking possession of the land.

(2) As soon as may be after the amount has been deposited under sub-section (1), the competent authority shall on behalf of the Central Government pay the amount to the person or persons entitled thereto.

(3) Where several persons claim to be interested in the amount deposited under sub-section (1), the competent authority shall determine the persons who in its opinion are entitled to receive the amount payable to each of them.

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(4) If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil Court of original jurisdiction within the limits of whose jurisdiction the land is situated.

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5. The provisions of Sections 3-G and 3-H of the Act were subject for interpretation in case of **Arun s/o Trimbakrao Lokare Vs. State of Maharashtra and others**, reported in **[2017(6) Mh.L.J. 612]**. In paras 13 and 16 of the above judgment, the Division Bench of this Court observed :

13) Taking into consideration the scheme of the Act and the provision of Section 3-H (supra), the Central Government is expected to deposit the amount of compensation determined under Section 3-G in respect of the land acquired for building, maintenance, management or operation of a National Highway or part thereof. As per Sub-section (2) of Section 3-H the competent Authority has to disburse that amount to the person/persons entitled there to. Sub-Section (3) then provides that where there are several persons staking claim to be interested in the amount of such

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compensation, the competent authority is under obligation to determine and record its opinion as to the entitlement of such person/persons to receive the amount. Sub-Section (4) then provides that wherever there is any dispute as to the apportionment of the amount or any part thereof the competent authority has to refer the dispute to the decision of the Principal Civil Court of original jurisdiction within limitation of whose jurisdiction the land situates.

16) It is a settled principle of interpretation of statute that the provisions of any statute are to be so interpreted as to give effect to each of them to the extent possible without giving rise to any conflict or overlapping. This principle of harmonious construction needs to be applied in the matter before hand vis a vis Sub-Section (3) of Section 3-H, while interpreting Sub-Section (3). Such application would lead us to interpret these provisions in harmonious manner putting neither of them otiose. A careful reading of these provisions would reveal that when several persons are entitled to claim compensation, the competent authority has power and jurisdiction to record an opinion and determine the persons who are entitled to receive share/s and only enables him to apportion the amount of compensation amongst them according to the share they are entitled to. As against this, Sub-Section (4) contemplates a situation where the dispute is raised as to the entitlement of the compensation by several persons and the jurisdiction to decide such dispute is conferred upon

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the Principal Civil Court of original jurisdiction. In other words, whenever there is dispute raised by any person as to the right to receive either the whole or portion of the compensation, the competent authority is obliged to refer the matter to the Principal Civil Court of original jurisdiction.”

6. It was submitted on behalf of the respondents No.2 and 3 that the amount of compensation has already been disbursed in favour of the respondent No.3. According to learned counsel, the petitioner has a remedy to approach the Civil Court to agitate his claim. Mr. Deshpande, learned Assistant Solicitor General, appearing for respondent No.2, would submit that, the petitioner gave up his right, title and interest in the land way back in 2010. The petitioner executed a registered deed of relinquishment. The effect of the relinquishment has been reflected in the revenue record of the land Gat No.57. The petitioner, thus, did not have any right, title and interest in the land acquired for the highway purpose. The competent authority, therefore, rightly did not pay any compensation to the petitioner.

7. The competent authority found the petitioner to have given up his right, title and interest in the land acquired, by executing a registered deed of relinquishment way back in 2010.

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The competent authority found the respondent No.3 to be entitled to receive the compensation. It has, therefore, disbursed the same to the respondent No.3. The petitioner is, therefore, left with no option but to approach the Civil Court to get his right established.

8. In the aforesaid factual backdrop, the Writ petition fails. The same is, therefore, dismissed. Rule discharged.

(R.G. AVACHAT)
JUDGE

fmp/-