

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 14507 OF 2018

Talere Panchkroshi Shikshan Prasarak Mandal, Mumbai.	...	Petitioner
V/s.		
The State of Maharashtra & Ors.	...	Respondents

Mr. Amit Kate for the Petitioner.
Mr. A.I. Patel, A.G.P. for the Respondent Nos.1 and 2- State.
Mr. Rui Rodrigues for Respondent No.3.
Mr. Pusakal Mishra i/b M.V. Kini & Co. for Respondent No.4.

**CORAM : R.M. BORDE AND V.L. ACHLIYA, JJ.
DATE : 8th JANUARY 2019.**

P.C.:

- 1 Heard. Rule. Rule with the consent of the parties.

- 2 The Petition is taken up for final hearing at the admission stage. Petitioner is objecting to the order passed by the Sub-Divisional Officer, Kankavli, of rejecting the application tendered by the Petitioner for disbursement of the amount of compensation to it. It is not a matter of dispute that certain portion of land out of Gat Nos.1060-A and 1060-B situate at Village Talere, has been acquired for the extension of the

Bombay Goa National highway. It is also not in dispute that the Petitioner Institution is owner of the aforesaid property which has been acquired for the purpose of widening of the National Highway. It is the contention of the Petitioner that it has donated an area in the extent of 4 Acres in favour of Bombay University, however, the aforesaid area of 4 Acres is not under acquisition. The name of the Petitioner Institution also appears in the award statement as the owner of the property and the amount of compensation has also been determined by LAO. The entitlement of the Petitioner to claim the amount of compensation has also not been disputed by the Mumbai University. Copy of the affidavit sworn by the Registrar of the University of Mumbai on 19.07.2017 which was presented on record before the Sub-Divisional Officer, is annexed herewith at Exhibit-P. It is specifically recorded in the affidavit tendered by the Mumbai University that the land which has been donated to the University by the Petitioner Institution does not include the land under acquisition. It is specifically recorded that no area out of the land allotted to the Mumbai University or which is put in possession of the Mumbai University, has been acquired for the purposes of widening of the National Highway. The Mumbai University has not raised any objection for

disbursement of the amount of compensation in favour of the Petitioner. The revenue record annexed to the Petition also indicates name of the Petitioner as the owner of the property. There is absolutely no dispute as regards disbursement of amount of compensation in favour of the Petitioner. In spite of this factual position, the Sub-Divisional Officer has withheld the amount of compensation and refused to disburse it in favour of the Petitioner. The action of the Sub-Divisional Officer is unsustainable and the same shall have to be branded as an order issued without application of mind to the record of the case. The order impugned in the Petition passed by the Sub-Divisional Officer is hereby quashed and set aside and it is directed to the concerned authority to disburse the amount of compensation determined under the award to the Petitioner Institution.

3 Rule is accordingly made absolute. There shall be no order as to costs.

(V.L. ACHLIYA, J.)

(R.M. BORDE, J.)