

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

WRIT PETITION NO. 663 OF 2019

Sandbhor Damodar Baaburao And Anr.	Petitioners
V/S	
State Of Maharashtra Through Deputy Collector & Anr	Respondents

Mr. Uday P. Warunjikar for Petitioners.
R. S. Pawan, AGP for the State-Respondent No. 1.
Mr. Pavan Patil for Respondent No. 2.

**CORAM : A. A. SAYED &
 PRAKASH D. NAIK, JJ.
DATED : 1st July, 2019**

P.C.:

The Learned Counsel for the Petitioners has produced a copy of the judgment passed by the Division Bench of this Court (Aurangabad Bench) in Arun Trimbakrao Lokare Versus State of Maharashtra & Ors., 2018(1) Bom.C.R. 643, wherein the Division Bench in Paragraph 17 has observed as follows:

“17. In view of such legal position, when sub-section (4) of section 3-H specifically requires the dispute as to entitlement to receive compensation determined under section 3-G of the Act to be referred to and decided by the Principal Civil Court of original jurisdiction, it by implication necessarily

excludes jurisdiction of the Competent Authority which is entitled to merely decide the point of apportionment of the compensation amongst several persons under sub-section (3) of Section 3-H. Such interpretation, in our view, strikes a balance between sub-section (3) and sub-section (4) of section 3-H of the Act and make them operative in separate spheres. The submission of the learned Advocate for the petitioner, on these line therefore deserves to be accepted.

2. By the impugned order dated 03.11.2018, however the Respondent – the Deputy Collector (Land Acquisition) No. 13, Pune instead of referring the matter to the Civil Court has assumed jurisdiction and rejected the objections/representations of the Petitioners, that too by relying upon the interlocutory order dated 18.09.2018 passed below Exhibit-5 in the Special Civil Suit No. 158 of 2016.

3. In the circumstances, the impugned order of the Competent Authority dated 03.11.2018 and communication dated 13.12.2018 cannot be sustained and are set aside.

4. The Competent Authority is directed to refer the matter to

the Principal Civil Court of Original Jurisdiction as contemplated in Sub-section (4) of Section 3-H of the National Highway Act, within a period of two weeks from placing an authenticated copy of this order before him.

5. The Petition is disposed of in the aforesaid terms. No other reliefs are pressed. All contentions are kept open.

(PRAKASH D. NAIK,J.)

(A.A.SAYED, J.)