

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3306 OF 2018

Pradeep P. Raien ... Petitioner.

V/s.

Union of India and ors. ... Respondents.

Mr. S.S. Kanetkar a/w. Mr. Tejas Hartalkar for the Petitioner.

Mr. R.V. Govilkar a/w. Mr. D.R. Shah for Respondent No.1.

Mrs. Madhubala Kajale, B- Panel Counsel for Respondent – State.

Mr. Nikhil Dongre for Respondent No.5.

CORAM : R. M. BORDE AND

PUSHPA V. GANEDIWALA, JJ.

DATE : 13th FEBRUARY 2019.

ORAL JUDGMENT (PER R.M. BORDE, J.)

1] Rule. With the consent of parties, the petition is taken up for final disposal at the admission stage.

2] The petitioner is amongst the claimants who claimed his entitlement to receive the amount of compensation determined by the Competent Authority in observance of provisions of National Highways Act, 1956 (for short “*said Act*”). The petitioner has raised the dispute in respect of apportionment of the amount by tendering an objection application on 25th January 2018 to the Competent Authority. The Competent Authority, however, instead of referring the dispute to the decision of the principal civil Court of original jurisdiction has proceeded to direct the parties to approach appropriate Court for redressal of their grievances.

3] Section 3H (4) of the said Act provides that if any dispute arises as to 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.

4] The issues which are required to be dealt with by the civil Court shall not be determined by the Competent Authority and it would be beyond the jurisdiction of the Competent Authority to deal with such issues. Thus, the order dated 7th February 2018 passed by the Competent Authority impugned in this petition is quashed and set aside and the Competent Authority is directed to refer the dispute raised by the petitioner before him in view of application dated 25th January 2018 shall be referred to the decision of the principal civil Court of original jurisdiction within the limits of whose jurisdiction the land is situated. The Competent Authority shall also forward the amount of compensation determined under the award and deposit the same in the Court while referring the dispute. Necessary steps shall be taken as expeditiously as possible and preferably within a period of three weeks from today.

4] Rule is accordingly, made absolute.

(PUSHPA V. GANEDIWALA, J.)

(R. M. BORDE, J.)