

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

WRIT PETITION (ST.) NO. 19354 OF 2019

Vijaymala Vijaysingh Mahadik
v/s.

.....Petitioner

The State of Maharashtra and ors.

.....Respondents

Mr. Vivek V. Salunke for the Petitioner.

Mr. R.P. Kadam, AGP for the State / Respondent Nos.1 and 2.

Ms. Pinaz Contractor for Respondent Nos.3 to 7.

Mr. Sachin Mehta, Respondent No.6 present in Court.

**CORAM: A.A. SAYED, AND
SMT. ANUJA PRABHUDESSAI, JJ.**

DATE : 02nd DECEMBER, 2019.

P. C. :-

. The Petitioner, by way of this Petition seeks reliefs in terms of prayer clauses (a) and (b), which reads thus :-

“ (a) By suitable writ, order or direction this Hon’ble Court be pleased to restrain the Respondent No.2 from disbursing amount of compensation in respect of acquisition of subject land i.e. Survey No. 89/0 admeasuring 11H-78.0R at village Bhale, Tal. Mangaon, District: Raigad

(b) By suitable writ, order or direction this Hon’ble Court may be pleased to direct the Respondent No.2 to refer the dispute in respect of entitlement to receive compensation for acquisition of subject land i.e. Survey No. 89/0 admeasuring 11H-78.0R at village Bhale, Tal. Mangaon, District: Raigad to the Court. ”

2. The subject land came to be acquired for the purpose of development by MIDC. The Petitioner lodged objections before Respondent No.2 on 09/07/2018. The Petitioner claims to be entitled to receive compensation. The learned Counsel for the Petitioner has pointed out that the suit filed by some of the heirs claiming share in the subject property is pending before the Civil Court. On going through the Complaint, the documents annexed to the Complaint and paragraph 97 of the Petition, which sets out the genealogy of the sharers, it is apparent that the Petitioner is claiming only 1/36th share in the subject property. Hence, in our view, it would not be appropriate to withhold disbursement of the entire compensation. In the circumstances, we pass the following order :-

ORDER

(a) The Respondent No.2 - The Competent Authority and the Sub-Divisional Officer, Mangaon, Raigad is directed to refer the dispute to the Reference Court as contemplated under Section 36 of the MIDC Act, 1961.

(b) The amount to the extent of 1/36th of the compensation shall be deposited by the Respondent No.2 with the Reference Court.

(c) The balance amount of the compensation will be disbursed in

accordance with the award subject to filing of the usual undertaking.

(d) We also record the undertaking of the learned Counsel for the Respondent Nos.3 to 7 that in the event, the other plaintiffs succeed in the Civil Suit, the Respondent Nos.3 to 7 shall bring back the amount.

(e) The Writ Petition to stand disposed of.

(f) All contentions of the parties are kept open.

Preeti
H.
Jayani

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signed by
Preeti H.
Jayani
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(SMT. ANUJA PRABHUDESSAI, J.)

(A.A. SAYED, J.)