

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

WRIT PETITION NO. 3839 OF 2020

Digambar Gopalrao Sherkar through
Power of Attorney Shivshankar
Digambar Sherkar .. Petitioner

Versus

The Union of India and others .. Respondents

Shri Sanjaykumar B. Bhosale, Advocate for the Petitioner.
Shri S. B. Deshpande, A.S.G. for Respondent Nos. 1 and 2.
Shri Amit T. Ghute, Advocate for the Respondent No. 3.

**CORAM : S. V. GANGAPURWALA AND
SHRIKANT D. KULKARNI, JJ.
DATE : 11TH MARCH 2020.**

FINAL ORDER :

. We have heard Mr. Bhosale, the learned advocate for the petitioner. The learned advocate submits that, the rights of the petitioner are not finally and conclusively adjudicated. Though before the Trial Court and the Appellate Court judgment is against the petitioner, still the second appeal is pending before the High Court. The Trial Court and the Appellate Court did not consider the admission given by the respondent that the petitioner is joint owner. The competent authority ought to have referred the matter to the principal court of original civil jurisdiction as contemplated under Section 3-H(4) of the National Highways Act. It could not have passed the order directing disbursement of the amount to the respondents.

2. The Trial Court has dismissed the suit filed by the petitioner holding that the petitioner does not have right over the amount of compensation. The petitioner filed an appeal. The appeal is dismissed. It appears that, the second appeal is pending.

3. As in the civil suit, it has been held that, the petitioner does not have right. The same has been confirmed by the appellate Court. The competent authority could not have passed a different order.

4. It is for the petitioner to seek the relief as may be permissible in the pending second appeal.

5. Considering the facts and circumstances of the present case, the impugned order cannot be faulted with. The writ petition is disposed of. No costs.

[SHRIKANT D. KULKARNI, J.] [S. V. GANGAPURWALA, J.]

bsb/March 20