

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION St.NO.12577 OF 2020

Balaji s/o Khanuji Ghallappa

Petitioner

versus

The Competent Authority

under National Highway Act, 1956

and others

Respondents

...

Mr.S.H. Panchal advocate for the petitioner

Mr. K.D. Munde, AGP for State.

Mr. A.B. Dhongade advocate for respondents No.1 and 2

Mr. M.D. Narwadkar advocate for respondents No.3 and 4.

**CORAM: S.V. GANGAPURWALA AND
SHRIKANT D. KULKARNI, JJ**

Date: JULY 30TH, 2020

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PER COURT :-

1 According to the learned advocate for the petitioner, the land of the petitioner was shown to be acquired. Subsequently, re-measurement was carried behind the back of the petitioner and the land of respondents No.3 and 4 is shown to have been acquired. Same is illegal. Respondents No.3 and 4 do not have any concern. The petitioner is the owner of the land. It is their ancestral property.

2 Learned counsel for respondents No.3 and 4 Mr. Narwadkar submits that the objection under section 3 (H)(4) of The National Highways Act is rejected. The land of the respondents No.3 and 4 is acquired. The competent authority

has considered the said aspect. The amount of compensation is also disbursed to respondents No.3 and 4.

3 We have considered the submissions.

4 We neither find any finding of the Civil Court deciding the issue of title, nor pendency of any civil proceedings. It is also a matter of fact that, initially the land of the petitioner is shown to be under acquisition. Subsequently, re-measurement is shown to have been undertaken. Petitioner claims that re-measurement is behind his back.

It appears that there is dispute with regard to the title and possession of the land acquired. In such scenario, section 3(H) (4) of the National Highways Act requires the competent authority to refer the matter to the Court of original civil jurisdiction.

5 In the light of above, we pass the following order.

6 The impugned order is quashed and set aside. The competent authority shall refer the dispute to the competent Court of ordinary civil jurisdiction. The amount drawn by respondents No.3 and 4 shall be subject to the decision of the Principle Court of ordinary original civil jurisdiction to whom the matter is referred for decision. Upon decision of the dispute by the Principle Court of Ordinary original Civil Jurisdiction, the

Court shall make further order with regard to the disbursement of the amount of compensation.

7 The Writ petition is disposed of. No order as to costs.

(SHRIKANT D. KULKARNI, J) (S. V. GANGAPURWALA, J.)

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