

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

WRIT PETITION NO. 12290 OF 2019

Sanjay Nivruttirao Jondhale

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Mr. Vivek U. Jadhav, Advocate for the Petitioner.

Mrs. V. N. Patil-Jadhav, AGP for Respondent No. 1.

Mr. Amol Patale, Advocate for Respondent No. 2.

Mr. S. S. Bora, Advocate for Respondent Nos. 3 and 4.

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

DATED : 04th FEBRUARY, 2020.

PER COURT:-

. We have heard Mr. Jadhav, learned counsel for the petitioner, Mr. Bora, learned counsel for respondent Nos. 3 and 4 and the learned counsel for the competent authority.

2. The petitioner has filed objection under Section 3H(4) of the National Highways Act. The objection is rejected. Aggrieved thereby, the present petition.

3. It appears that the present respondent Nos. 3 and 4 purchased the property subject matter of acquisition under the registered sale deed of the year 2010. The petitioner purchased plot survey No. 5/1

and 5/2 gut No. 2 under registered sale deed dated 09.09.2016. Under Section 3(A) of the National Highways Act notification was issued before the petitioner purchased the land. Under Section 3 (A) of the National Highways Act notification was issued in the official gazette on 01.06.2016 and published in two local newspapers on 07.07.2016. Subsequently, notification under Section 3(D) of the National Highways Act was published in official gazette on 06.04.2017. It further appears that the petitioner thereafter on or about 11.01.2017 got corrected sale deed executed thereby changing the boundaries.

4. It is clear that after the notification under Section 3(A) of the National Highways Act was issued, the present petitioner purchased the property and it is only on 11.01.2017 the corrected sale deed is executed. The petitioner has also filed civil suit. The dispute raised by the petitioner about the location of the property. The petitioner claims that though in the award the land is shown to be owned by respondent Nos. 3 and 4 the petitioner is the owner of the land.

5. Considering the dispute about the location of the property vis-a-vis ownership, it would be appropriate to refer the dispute to the Principal Court of original civil jurisdiction as contemplated under Section 3H(4) of the National Highways Act. It further appears that the petitioner is the purchaser of the property after notification under

Section 3(A) of the National Highways Act.

6. We allow the respondent Nos. 3 and 4 to withdraw the amount, however, subject to furnishing the solvent security of the like amount to the satisfaction of the competent authority. The said withdrawal shall also be subject to the decision that would be taken by the Principal Court of original civil jurisdiction in the reference that would be made.

7. With the aforesaid observations, the writ petition is disposed of.

No costs.

(SHRIKANT D. KULKARNI)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

P.S.B.