

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 1268 OF 2019

(Dhandabai @ Sakhubai Raghunath Deshmane..vs.. Shivaji Suryabhan Nagardhane & anr)

*Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's Orders.*

Court's or Judge's orders.

 Shri A.M. Kukday, Advocate for petitioner.
 Shri A.M. Kadukar, AGP for respondent No.2.

CORAM: RAVINDRA V. GHUGE, J.

DATE: 10th JANUARY, 2020.

1. The petitioner is before this Court challenging the order of the Sub-Divisional Officer cum Land Acquisition Officer dated 24.1.2019, in Case No. 02/47/2016-17, vide which the Sub-Divisional Officer has purportedly exercised jurisdiction, not vested in him by law.

2. I have briefly heard the learned Advocates for respective sides. The respondents submit that the petitioner has no share in the property and therefore, will have no share in the compensation amount as she has executed a registered relinquishment deed which is now placed on record, in view of the order of this Court dated 22.4.1991. Reliance is placed on the judgment of the learned Division Bench in the matter of *Sayed Mohamed Shah Abdul Hamid Kadri vs. State of Maharashtra and another, 2005(4) Mh.L.J. 1060*. As the said judgment is with reference to section 30 of the earlier Land Acquisition Act, 1894, holding that the Sub-Divisional Officer has jurisdiction, reliance is

placed on the judgment delivered by the Hon'ble Apex Court in the matter of ***Madan and another..vs.. State of Maharashtra, 2014(4)Mh.L.J. 26.***

3. The learned Advocate for the petitioner submits that if 1/5th of the compensation amount of Rs.18,70,408/- is preserved, this petition can be disposed off and his pending Regular Civil Appeal No. 18 of 2018, could be expedited.

4. I proposed to the parties that respondent No. 1 may be permitted to withdraw the entire amount subject to the filing of an affidavit undertaking by respondent No.1 that if the appeal is decided in favour of the petitioner Dhondabai and she is held entitled of 1/5th share of the compensation amount, respondent No. 1 would first deposit the 1/5th share in this Court before initiating proceedings for challenging the said judgment of the appellate Court. The learned Advocates for both the sides are agreeable.

5. In view of the above, this petition is disposed off.

6. It is made clear that if respondent 1 Shivaji Suryabhan Nagardhane withdraws the entire amount of Rs. 18,70,408/- with accrued interest, if any, and subsequently if Dhondabai @ Sakhubai Raghunath succeeds in the appeal, the challenge to the said judgment by Shiwaji would not be registered in any Court until he deposits 1/5th

of the withdrawn amount, as a precondition for the registration of his proceedings.

7. As such, the appellate Court would endeavour to decide Regular Civil Appeal No. 18/2018, as expeditiously as possible and preferably on or before 30.6.2020.

(Ravindra V. Ghuge, J.)

Belkhede RS