

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

WRIT PETITION NO. 7765 OF 2019

Shri Shantaram Mahadeo Pande

Vs.

The Sub Divisional Officer and Land Acquisition Officer, Saoner and others

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

Court's or Judge's orders

Shri S.M. Prasad, Advocate for the petitioner
Shri S.S. Sitani, Advocate for the respondent nos.4,6,8.
Smt M. Naik, AGP for respondent nos. 1 and 2.

CORAM : MANISH PITALE, J.

DATED : JANUARY 24, 2020

By this writ petition the petitioner is challenging order dated 10.07.2018 passed by the 17th Joint Civil Judge Senior Division, Nagpur (Reference Court), before whom Reference proceedings under Section 18 of the Land Acquisition Act, 1894, are pending.

2. It is the claim of the petitioner that he is entitled to be brought on record in place of original claimant as sole legal representative on the basis of Will that original claimant had executed in his favour.

3. It is the case of the petitioner that the Reference Court in the impugned order has not referred to the Will dated 11.01.2017, executed by the

original claimant and he along with his siblings have been erroneously brought on record before the Reference Court as representing the interest of the original claimant.

4. Notice was issued in this writ petition after recording aforesaid specific contention raised on behalf of the petitioner. By way of amendment all the other siblings of the petitioner were arrayed as respondent nos.4 to 8 in the present writ petition. They were served and they are represented through counsel. It is submitted on behalf of the respondent nos. 4 to 8 through their counsel that they have no objection if only the name of the petitioner is brought on record in the Reference proceeding in place of original claimant on the basis of aforesaid Will. In view of the said statement made on behalf of respondent nos.4 to 8, it becomes obvious that the Reference Court erred in passing the impugned order dated 10.07.2018.

5. Accordingly, the impugned order is set aside and it is directed that only the petitioner shall be brought on record before the Reference Court as representing the deceased original claimant.

6. By way of abundant caution the respondent nos.4 to 8 are directed to place affidavit on record of the Reference Court regarding their no objection to only the petitioner being brought on record to

represent the interest of the deceased original claimant before the Reference Court.

7. The writ petition is disposed of in above terms.

JUDGE

srwagh