

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

5 WRIT PETITION NO.11746 OF 2021

LALUBAI ALIAS LATABAI GEMA RATHOD
VERSUS
THE UNION OF INDIA AND OTHERS

Mr. Vivekanand V. Ingale, Advocate for the petitioner;
Mr. A.G. Talhar, A.S.G.I. for respondent nos.1 & 2;
Mr. P.S. Patil, AGP for respondent no.3

**CORAM : DIPANKAR DATTA, CJ
AND
MANGESH S. PATIL, J.**

DATE : October 22, 2021

P.C.

1. A piece and parcel of land at Talmode, Taluka Omerga, District Osmanabad has been acquired for the purpose of National Highway No.9 (New 65). The competent authority has determined compensation payable to the owners, i.e., the respondent nos. 4 to 6. Claiming to be aggrieved by the amount of compensation determined by the competent authority, such respondents have raised an objection resulting in the dispute being referred to an Arbitrator for determination of the amount of compensation.

2. The petitioner, claiming to be a co-owner of the acquired land, sought to intervene in the proceedings before the Arbitrator by filing an application dated 9th March 2020 for intervention/addition of party. It is her claim in the writ petition that the Arbitrator has refused to accept the application on the ground that it is not maintainable. We have been informed by Mr. Ingale, learned advocate appearing for the petitioner that no formal order has been passed by

the Arbitrator. Accordingly, this writ petition has been presented seeking a direction on the Arbitrator, respondent no.3, to accept the application of the petitioner for intervention/addition of party.

3. We have heard Mr. Ingale, and Mr Talhar, learned A.S.G.I. for the respondent nos.1 and 2.

4. It is not disputed at the Bar that the petitioner did not raise any objection in terms of the enabling provision contained in Section 3-C of the National Highways Act, 1956 (hereafter 'the Act'). It is further not disputed that the petitioner did not raise any dispute of the nature referred to in section 3-H (4) of the Act. Also, the undisputed position is that there is no independent proceeding pending at the instance of the petitioner for enhancement of compensation. On the contrary, the petitioner has instituted a civil suit for partition in respect of the acquired land and such suit is pending.

5. Given such facts and circumstances, the right that the petitioner claims of being a co-owner of the acquired land is yet to be determined. Obviously, the Arbitrator is not required by law to determine the shares of the parties in the acquired land. His task is to determine whether the amount of compensation awarded by the competent authority in favour of the respondent nos. 4 to 6 is just and fair. Although the Arbitrator has not passed a formal order rejecting the petitioner's application dated 9th March 2020, we do not see any reason to grant relief on this writ petition as prayed for to the petitioner.

6. All contentions of the petitioner with regard to her claim of ownership of the acquired land is left open for being agitated in the civil suit instituted by her.

7. The writ petition stands disposed of with the aforesaid observations.
No costs.

[MANGESH S. PATIL, J.]

[CHIEF JUSTICE]

amj