

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

9 WRIT PETITION NO.3589 OF 2020
WITH
CA/4510/2021 IN WP/3589/2020 WITH CA/4511/2021 IN WP/3589/2020

BHAGYASHREE SATYANARAYAN NALGE AND OTHERS
VERSUS
THE COMPETENT AUTHORITY NATIONAL
HIGHWAYS AUTHORITY OF INDIA

...
Advocate for Petitioner : Mr. Katneshwarkar P.R.
Standing Counsel for respondent no. 1 : Mr. Amol N. Patale
Advocate for Respondent nos. 2 to 4 : Mr. A.A. Mukhedkar
...

WITH
WRIT PETITION NO. 12238 OF 2021

ANAND PANDURANG PATIL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for petitioner : Mr. B.N. Gadegaonkar
Standing Counsel for respondent no. 1 : Mr. Amol N. Patale
Advocate for Respondent nos. 2 to 4 : Mr. A.A. Mukhedkar
...

**CORAM : RAVINDRA V. GHUGE
AND
S. G. MEHARE, JJ.**

DATE : 13TH DECEMBER 2021

PC :

1. By an order passed by the learned Administrative Judge of this Bench, both these petitions are clubbed, so as to be taken up by this Bench.
2. Considering the order that we are passing, we are not required to advert to the entire submissions of the litigating parties.

Suffice it to say that the petitioners in these two petitions and the respondents, are into litigation with regard to the shares of the compensation amount. The land has been acquired under the National Highways Act, 1956 (for short "**the Act**"). The compensation amount is approximately of Rs. 6 Crore, to be apportioned to the five sharers, comprising of a widowed mother, two married daughters, one son and a widow of the son.

3. Shri Katneshwarkar, the learned Advocate relies upon the judgment delivered by the Division Bench of this Court on 29-06-2017 at Aurangabad in writ petition no. 1949 of 2017 filed by Arun Trimbakrao Lokare versus The State of Maharashtra and others, in which this Court has taken a view that the Principal Civil Court of original jurisdiction can decide such a dispute, in view of section 3-H(4) of the National Highways Act, 1956.

4. Section 3-H(4) of the Act clearly mandates that, if there is any dispute as regards the apportionment of the amount of compensation, the competent authority shall refer the dispute to the decision of the Principal Civil Court of original jurisdiction within the limits of whose jurisdiction the land is situated. However, the competent authority did not act in accordance with Section 3-H(4) of the Act and permitted the withdrawal of the compensation. Respondents no. 2 to 4 have withdrawn a total amount of Rs. 4 Crore and odd, from the compensation amount of Rs.6 Crore and odd. Before there could be any further withdrawal of the amount, this Court passed an order on

04-03-2020, directing that *status-quo* as existing on the said date, shall be maintained.

5. The petitioner in the second petition (WP/12238/2021), namely, Anand Pandurang Patil claims to be the manager of the property and he has also jumped into the fray of the litigation.

6. Special Civil Suit no. 49 of 2019 has been preferred by the petitioners in the first petition (WP/3589/2020), namely, Bhagyashree W/o Satyanarayan Nalge, Omsai S/o Satyanarayan Nalge and Vijayalaxmi @ Anuradha W/o Sangram Rane. The petitioner in the second petition, namely, Anand has also preferred Regular Civil Suit no. 146 of 2020. The litigating parties might as well approach the competent Court, for the clubbing of these matters as all these litigants are litigating for a share from the same acquisition proceedings.

7. In view of the above, both these petitions are disposed off. The *status-quo* order granted by this Court on 04-03-2020, shall continue to operate till the decision in the two suits or in the event of any application for withdrawal of amount being filed by any of the parties, which could be adjudicated upon by the learned Civil Court on its own merits.

8. We are informed that one of the litigating parties, namely, Kamal D/o Marotrao Nalage and others have preferred writ petition no. 2395 of 2021 before this Court, challenging the direction by the trial Court dated 11-01-2021, vide which defendant nos. 1 and 2 in Special

Civil Suit no. 49 of 2019 are directed to lead evidence first. The said order has been stayed by this Court. However, the suit has not been stayed considering the specific language used by the learned Single Judge in clause 4 of the order dated 12-02-2021.

9. In this backdrop, we would expect the trial Court to decide the said two suits, as expeditiously as possible, on or before 31-12-2022. We make it clear, for it being needless to state that the amount already withdrawn, would be subject to the decision in the said proceedings. The remainder amount, which is disbursed to Kamal Marotrao Nalge and the bank account in which it is deposited, has been frozen by this Court. We direct the concerned bank to invest the said amount in a fixed deposit receipt for an initial period of one year till 31-12-2022, and to be renewed thereafter on the same terms and conditions along with accrued interest, subject to the orders by the competent Court dealing with the said suits.

10. Both petitions are disposed off.

11. Pending civil applications would not survive and stand disposed off.

[S.G. MEHARE, J.]

[RAVINDRA V. GHUGE, J.]

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