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

9 WRIT PETITION NO.6106 OF 2018

**SHIVRAM KASHIRAM @ KASHINATH SHELAR
VERSUS
THE SUB DIVISIONAL OFFICER/COMPETENT
AUTHORITY (SAMRUDDHI MAHAMARG),
VAIJAPUR, TQ. VAIJAPUR,
DIST. AURANGABAD**

...
Mr A. D. Shinde, Advocate h/f Mr N. D. Sonavane, Advocate for
petitioner;
Mr A. V. Patil Indrale, Advocate for respondent Nos.1 & 4;
Mr U. D. Dalvi, Advocate for respondent No.3

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

DATE : 23rd August, 2021

PER COURT:

1. Leave to add 'the Maharashtra State Road Development Corporation' as respondent No.4. Addition be carried out forthwith.
2. Issue notice to the added respondent No.4. Shri. Indrale Patil, learned Advocate waives service of notice on behalf of respondent No.4.

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3. Having considered the submissions of the learned Counsel for the respective sides extensively, we find that the petitioner had himself submitted account details to the Acquiring Body before entering into a sale deed based on private negotiations. Consequent to this act, the petitioner tendered the Bank Account details to the Acquiring Body. Apparently, the petitioner himself has lost sight of the fact that the bank account details, which he has tendered to the Acquiring Body- respondent No.1, were of a joint account, newly created in favour of the petitioner and respondent No.3, who is his grand daughter-in-law. There is no dispute that respondent No.3 has a marital dispute with her husband, and her immediate parents-in-law are also involved in the said litigation. It is the contention of respondent No.3 that a private arrangement is arrived at between the entire family members of her husband and she herself, by which, the land at issue, which has been acquired, was to be equally shared with respondent No.3. It is, however, conceded that there is no written agreement between the parties.

4. The first respondent has deposited the entire compensation amount of Rs.29,21,661/- in the said joint account held by the petitioner and respondent No.3. By an order passed by this Court

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on 05/08/2019, the entire amount along with interest was directed to be transferred in the account of the MSRDC – respondent No.4 herein. This petition was disposed off since respondent No.3 did not appear in the proceeding, despite service of Court notice. Subsequently, respondent No.3 filed Review Application No.179/2019, which was allowed by this Court vide order dated 07/02/2020 and this petition was restored.

5. The learned Advocate representing respondent No.3 submits that the Competent Court, dealing with P.W.D.V.A. No.234/2018, at Aurangabad, had passed an order on 14/03/2019, prohibiting the signatories to the joint account from withdrawing the said amount.

6. The legal position in relation to the present proceeding is clear. The learned Court dealing with the Domestic Violence cases can not injunct the petitioner from withdrawing at least 50% of the amount and equal percentage of the interest amount since it is the case of respondent No.3 that she would be entitled to half of the share. So also, the petitioner is not a party to the said proceeding before the learned Judicial Magistrate First Class.

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7. The learned Advocate for respondent No.3 consents on instructions that the petitioner may withdraw 50% of the amount and an equal percentage of the interest amount from the account of the MSRDC, where the said amount has been deposited. So also, the learned Counsel submits that he is aware of the legal position applicable to the case of his client and she will have to obtain a declaratory relief from the competent Civil Court by filing a civil suit so that her claim to the extent of half of the compensation amount, in view of her purported right to half of the share in the acquired land, will have to be demonstrated. Therefore, she would be filing such a civil suit in six weeks from today. She consents for the remainder amount of 50% including accrued interest to be retained by respondent No.4. Since she would be arraying respondent No.4, the said amount can be deposited before the learned Civil Court by respondent No.4.

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

9. The statements of the learned Counsel set out above, are statements made to the Court and shall bind the parties. They shall be precluded from resiling the said statements.

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10. The petitioner would withdraw 50% of the compensation amount inclusive of the interest by moving an application before respondent No.4 and the said application shall be allowed by respondent No.4 so as to transfer the said amount in a Savings Bank Account exclusively in the name of the petitioner, details of which he would mention in the application for withdrawal. No formal consent of respondent No.3 would be necessary on such an application, in view of the consent given before this Court.

11. After respondent No.3 files a civil suit and notice in the said proceeding is served on respondent No.4, in its capacity as a defendant, it shall deposit the remainder amount along with interest in the account of the Civil Court, which shall then invest the said amount in a fixed Deposit Receipt till the proceedings are decided. Respondent No.3 herein, then in her capacity as a plaintiff, will not be allowed to withdraw the said amount except on consent terms if she arrives at any consent with the defendants. The litigating parties would co-operate with the learned Civil Court for an expeditious disposal of the said proceeding.

(S. G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)