

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

**14 WRIT PETITION NO.6115 OF 2018
WITH CA/1276/2021 IN WP/6115/2018**

DAGADU SHYAMRAO MATE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioners : Mr. Palodkar Devdatt P.
AGP for Respondents/State : Mr. S.B. Yawalkar
Advocate for Respondent Nos.2 & 3 : Mr. S.V. Adwant
Advocate for Respondent No.4 : Mr. V.H. Dighe h/f Mr. D.R. Kale Patil
...

**CORAM : RAVINDRA V. GHUGE &
S.G. MEHARE, J.J.**

DATED : 09th AUGUST, 2021

PER COURT:-

1. The petitioner has put-forth prayer clause (B), (C) and (D) as under:

“B) The Hon’ble High Court may be pleased to issue writ of certiorari or any other appropriate writ or order or direction in the nature of writ and thereby quash and set aside order dated 03.05.2018 passed by respondent no.3 (Annexure-”D”) and respondent No.3 may be directed to pay the amount of compensation in respect of acquisition of well situated in Gut No.287 of village Jaipur Tal. and District Aurangabad in favour of the petitioners.

C) By way of Writ of Mandamus or any other appropriate writ, order or directions in the like nature, the respondent No.3 may be directed to refer the dispute arose in the present case in respect of entitlement of amount of compensation in respect of acquisition of well situated in Gut No.287 of village Jaipur Tal. and District Aurangabad in favour of the petitioners. to the Principal Civil Court, Aurangabad for adjudication as per Sec.19 C (iv) of the

Maharashtra Highways Act, 1955.

D) By way of Writ of Mandamus or any other appropriate writ, order or directions in the like nature, the respondent Nos.3 and 4 may be directed to deposit the amount received from respondent No.2 in respect of acquisition in respect of acquisition of well situated in Gut No.287 of village Jaipur Tal. and District Aurangabad in favour of the petitioners.”

2. We have considered the strenuous submissions of the learned counsel for the respective sides. With their assistance, we have gone through the petition paper book and the affidavits in reply filed by them, threadbare. We have also perused the record and the colour photographs that have been placed before us, appended to the Civil Application No.1276 of 2021.

3. Considering the order that we are passing in this petition, we are not required to advert to the entire submissions of the learned counsel for the respective sides.

4. Section 19C (1 to 6) of the Maharashtra Highways Act, reads thus:

“19C.

(1) The amount determined under section 19B shall be deposited by the State Government, in the prescribed manner, with the Land Acquisition Officer before taking possession of the land.

(2) As soon as may be after the amount has been deposited under sub-section (1), the Land Acquisition Officer shall on behalf of the State Government pay the amount to the person or persons entitled thereto.

(3) Where several persons claim to be interested in the

amount deposited under sub-section (1), the Land Acquisition Officer shall determine the persons who in his opinion are entitled to receive the amount payable to each of them.

(4) If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the Land Acquisition Officer 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.

(5) Where the amount determined under sub-section (8) of section 19B by the arbitrator is in excess of the amount determined by the Land Acquisition Officer, the arbitrator may award interest at nine per cent. per annum on such excess amount from the date of taking possession under section 19 till the date of the actual deposit thereof.

(6) Where the amount determined by the arbitrator is in excess of the amount determined by the Land Acquisition Officer, the excess amount together with an interest, if any, awarded under sub-section (5), shall be deposited by the State Government, in the prescribed manner, with the Land Acquisition Officer and the provisions of sub-sections (2) to (4) shall apply to such deposit.”

5. The impugned order dated 03.05.2018 carries a semblance of a judicial order passed by the competent authority under Section 19C (4). The said authority, while entertaining the dispute between the petitioners and respondent no.4 – Jaipur Gram Panchayat, ventured into assessing the merits of the documents placed before it so as to conclude as to whether the well at issue belongs to the petitioners or to the gram panchayat. Eventually, it concluded that the objections of these petitioners are without merit and the well appears to be belonging to the gram panchayat and hence the compensation amount deserves to be apportioned to the gram panchayat.

6. By order dated 20.06.2018, passed by this Court, status-quo as existing then was directed to be maintained. On the date of passing of this order, there was no apportionment of money. Shri Adwant, the learned advocate for the acquiring body fairly states that the body is interested in disbursing/apportioning the amount of compensation to the rightful person.

7. Considering the import and meaning of Section 19-C (4), if there is any dispute of the nature as like the one before us, the competent authority should be referring the dispute for decision to the Principal Civil Court of Original Jurisdiction within the limits of whose jurisdiction, the land is situated. Shri Adwant informs us that considering the exparte ad-interim order passed by this Court on 20.06.2018, which was continued even thereafter, the amount has still not been disbursed.

8. We also find from a judgment delivered by the learned Single Judge of this Court in the matter of **Shrikant R. Sankanwar and Ors Vs. Krishna Balu Naukudkar, 2003 (3) BomCR 45**, wherein it has been held that mutation entries and the entries in the 7/12 extracts are purely for fiscal purposes. They do not decide the right, title or interest of any person in the land at issue or in the immovable property at issue.

9. In view of the above, this petition is partly allowed. The impugned order dated 03.05.2018 is modified with a direction to the competent authority to refer the dispute to the learned Principal Civil Court of Original Jurisdiction at Aurangabad, on or before 31.08.2021. The amount of compensation deposited with the competent authority by the acquiring body, shall also be transmitted to the said Court. The learned

Court would deposit the said amount in a fixed deposit receipt with a nationalized bank, until the dispute is resolved. We expect the learned Court to decide the said dispute as expeditiously as possible and preferably on or before the 31st day of December 2022.

10. The pending civil application would not survive and stands disposed off.

11. We make it clear that if the learned Court comes to a conclusion that either of the parties have attempted to play mischief to delay the apportionment of the compensation amount, it shall be at liberty to impose cost of Rs.50,000/- on each such person who is found to have played a mischievous role in this matter.

(S.G. MEHARE. J)

(RAVINDRA V. GHUGE, J)