

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1031 Writ Petition No.8078 Of 2021

Syed Abdul Gaffar S/o. Abdul Rahim .. Petitioner
Versus
The State of Maharashtra and Others ..Respondents
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Mr G.R. Syed, Advocate for the Petitioner
Mr S.P. Tiwari, AGP for Respondent No.1
Mr A.D. Kasliwal, Advocate for Respondent Nos.3 to 5
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CORAM : S. V. GANGAPURWALA AND
R.N. LADDHA, JJ.

DATE : 22-09-2021

PER COURT :

1. Mr Syed, learned Advocate for the petitioner submits that the petitioner had filed an objection under Section 3H (4) of the National Highways Act, 1956. The same is rejected. The learned Counsel further submits that in case of dispute about title, the Competent Authority has to refer it to the Civil Court instead it has rejected the application.

2. Mr Kasliwal, learned Advocate for Respondent Nos.3 to 5 submits that the petitioner on its own volition has executed *Samatipatra* in favour of Respondent Nos.3 to 5. The petitioner has subsequently filed a suit for declaring the *Samatipatra* as null and

void. The learned Advocate further submits that Respondent Nos.3 to 5 have already withdrawn the amount of compensation.

3. The amount is allowed to be withdrawn and the Award is passed in the name of the present petitioner. On the basis of the *Samatipatra* that is the subject matter of the civil suit filed by the petitioner, the respondents are allowed to withdraw the amount. The matter will have to be decided before the Civil Court in the suit filed by the petitioner bearing R.C.S. No.165 of 2021. The amount is already withdrawn by Respondent Nos.3 to 5. The interest of justice would be sub-served by passing the following order.

ORDER

(i) The amount withdrawn by Respondent Nos.3 to 5 is subject to the decision in Regular Civil Suit bearing No.165 of 2021 filed by the petitioner. In case the civil suit of the petitioner is decreed, then the Court shall pass further orders with regard to the repayment of the amount withdrawn by Respondent Nos.3 to 5. In case the suit is dismissed, it will not be necessary to pass any further orders therein.

4. With these observations the writ petition is disposed of. No costs.

5. Needless to state, the Civil Court is not bound by the orders

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passed by the competent authority and Civil Court has to arrive at independent conclusion.

(R. N. LADDHA)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

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