

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

WRIT PETITION NO.12820/2021

**SACHIN VILASRAO POL AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for petitioners : Mr.Shailendra S.Kulkarni
A.G.P. for respondent State : Smt.D.S.Jape.

...
**CORAM: MANGESH S PATIL,J.
DATE : 03.12.2021**

P.C.:

Heard the learned advocate for the petitioners. The petitioners claiming to have a share in the amount of compensation awarded by the Reference Court under the Land Acquisition Act are seeking to oppose the decree holders from withdrawing the amount of compensation which request has been turned down by the executing court by the order under challenge in this Writ Petition.

2] It transpires during the course of arguments that the petitioners have already instituted Special Civil Suit No.8/2019 against the decree holders *inter alia* seeking a right in the amount of compensation. It is therefore, quite apparent that the petitioners will have to have all their remedies and reliefs pressed and granted in the substantive suit. Without such semblance of rights, they cannot be permitted to stop and obstruct the payment of compensation by the executing

Court to the decree holders therein. This is what has been precisely noticed and remarked by the executing Court in the order under challenge.

3] It is pertinent to note that the petitioners initially filed application (Exh.17) with a similar relief. That application was rejected. The order was not challenged and another attempt was made by filing application (Exh.29) with the same prayers. This is an additional ground on which the executing Court has refused the relief being claimed in the application (Exh.29).

4] Even the provisions of Order XXI Rule 29 of the Code of Civil Procedure would not be applicable in as much as admittedly the petitioners were not parties to the reference from which an award has been passed which is under execution.

5] In view of such state of affairs, keeping open all the remedies for the petitioners to avail in the Special Civil Suit filed by them, the Writ Petition is dismissed.

6] The observations made hereinabove are confined to the decision of the present Writ Petition.

[MANGESH S. PATIL,J.]