

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.166 OF 2021

Nanda Babu Bhimre & Ors. ... Petitioners

Vs.

The Competent Authority &
Sub-Divisional Officer, Vasai & Ors. ... Respondents

Mr. Anil D'souza for the Petitioners.
Ms.M.P. Thakur, AGP for the State.
Mr. Kishor Patil a/w Mr. Sameer Mhatre for Respondent Nos. 2
to 5 and 13.

**CORAM : S.J. KATHAWALLA &
VINAY JOSHI, JJ.**

DATE : 20TH JANUARY, 2021

P.C. :

1. By the above Writ Petition, the Petitioners have
prayed for the following reliefs :

*“(a) That this Court be pleased to issue a Writ of
Certiorari or any other appropriate Writ, Order or
direction in the nature of a Writ of Certiorari and to
quash and set aside the order dated 7th October,
2020 (Exhibit-D hereto) passed by the Respondent
No. 1.*

*(b) This Court be pleased to issue Writ of
Mandamus or any other appropriate Writ or
direction and / or order in the nature of Writ*

directing Respondent No. 1 to refer the matter (objection / dispute) in respect of apportionment of claim of compensation amount of Survey No. 196, Hissa No. 1, admeasuring 0-70-0 situated at Village Gokhivare, Taluka Vasai, District Palghar to the Principle Civil Court of Original Jurisdiction (i.e. Civil Judge, Senior Division, Vasai) as contemplated under Section 20-H (4) of the Railways Act, 1989 and to deposit the entire compensation amount of the said land in the said Court.”

2. Heard the learned Advocates for the parties.
3. Admittedly, the Petitioners have already filed a Suit being RCS No. 124 of 2019 before the Court of Civil Judge, Senior Division, Vasai for a declaration that the Petitioners herein have an aggregate 3/20 share in the suit property (which is described in Paragraph 1 of the Suit) and the same be divided into metes and bounds and for partition and / or separate possession and also for injunction restraining the Respondents therein from creating any third party rights in respect of the suit property.
4. In view of the Suit, which is pending before the Civil Judge, Senior Division, Vasai, following order is passed :-
 - i. The Respondent No.1 shall not disburse the compensation awarded in the matter for a

period of four weeks to the extent of 3/20 share of the Petitioners.

- ii. The Petitioners shall move the Court of Civil Judge, Senior Division, Vasai with an application seeking ad-interim / interim reliefs with regard to the disbursement of the compensation claimed by the Petitioners in respect of the property, which is the subject matter of the present Writ Petition.
- iii. In the event of such an application being filed before the Court of Civil Judge, Senior Division, Vasai within a period of one week from today, the same shall be disposed of by the learned Civil Judge within a period of two weeks thereafter.
- iv. All contentions of the parties are kept open.
- v. Writ Petition is accordingly disposed of.

(VINAY JOSHI, J.)

(S.J. KATHAWALLA, J.)