

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

WRIT PETITION NO. 6211 OF 2022

Ramrao Sambhajirao Thorat .. Petitioner

Versus

The Competent Authority National
Highways Authority and the Sub
Divisional Officer and others .. Respondents

Shri V. D. Hon, Senior Advocate i/by Shri Ashwin V. Hon,
Advocate for the Petitioner.

Shri B. M. Dhanure, Standing Counsel for the Respondent No. 1.

Shri S. S. Dixit, Advocate for the Respondent Nos. 2 to 5.

Shri Vishant P. Kadam, Advocate for the Respondent Nos. 6 & 7.

**CORAM : SANDEEP V. MARNE, J.
DATE : 20TH OCTOBER, 2022.**

FINAL ORDER :

. By this petition, Petitioner challenges order dated 13.06.2022 passed by the Competent Authority, National Highways Act cum Sub Divisional Officer, Sangamner. By that order, the Competent Authority has proceeded to decide the disputes amongst the petitioner and respondent Nos. 2 to 7 about their entitlement to compensation for acquisition of the land.

2. The issue involved in the present case is squarely covered by the judgment of this Court in **Arun Trimbakrao Lokare Vs. State of Maharashtra and others** reported in **2017(6) Mh.L.J. 612**. Para Nos. 16 and 17 of which reads thus :

16. It is a settled principle of interpretation of statute that the provisions of any statute are to be so interpreted as to give effect to each of them to the extent possible

without giving rise to any conflict or overlapping. This principle of harmonious construction needs to be applied in the matter before hand vis a vis Sub-Section (3) of Section 3-H, while interpreting Sub- Section (3). Such application would lead us to interpret these provisions in harmonious manner putting neither of them otiose. A careful reading of these provisions would reveal that when several persons are entitled to claim compensation, the competent authority has power and jurisdiction to record an opinion and determine the persons who are entitled to receive share/s and only enables him to apportion the amount of compensation amongst them according to the share they are entitled to. As against this, Sub-Section (4) contemplates a situation where the dispute is raised as to the entitlement of the compensation by several persons and the jurisdiction to decide such dispute is conferred upon the Principal Civil Court of original jurisdiction. In other words, whenever there is dispute raised by any person as to the right to receive either the whole or portion of the compensation, the competent authority is obliged to refer the matter to the Principal Civil Court of original jurisdiction.

17. In view of such legal position, when Sub-Section (4) of Section 3-H specifically requires the dispute as to entitlement to receive compensation determined under Section 3-G of the Act to be referred to and decided by the Principal Civil Court of original jurisdiction, it by implication necessarily excludes jurisdiction of the competent Authority which is entitled to merely decide the point of apportionment of the compensation amongst several persons under Sub-Section (3) of Section 3-H. Such interpretation, in our view, strikes a balance between Sub-section (3) and Sub-section (4) of Section 3-H of the Act and make them operative in separate spheres. The submission of the learned Advocate for the petitioner, on these lines therefore deserves to be accepted.

3. Thus, it is now trite that the moment dispute is raised before the Competent Authority about entitlement of compensation, the Competent Authority cannot decide such dispute and is required to refer the matter to the Court of original jurisdiction U/Sec. 3H-4 of the National Highways Act.

4. Mr. Dixit, learned counsel appearing for respondent Nos. 2 to 5 and Mr. Kadam, learned counsel appearing for respondent Nos. 6 and 7 strenuously urge before me that there are no disputes, as the property is a joint family property and that as per the admission of the petitioner himself, there is no partition thereof. They would therefore submit that the respondent Nos. 2 to 5 and 7 are also entitled to compensation.

5. The position is disputed by Mr. Hon, learned Senior Advocate for the petitioner, who would contend that when the property was acquired, the same stood in the name of Petitioner, his father and mother. He would further submit that the trio filed objection for enhancement of compensation and that on account of their efforts, higher compensation has been determined. He would submit that only after higher amount of compensation came to be sanctioned, the respondent Nos. 2 to 5 and 7 have started claiming interest in the amount of compensation.

6. There appears to be dispute amongst the parties with regard to entitlement to the amount of compensation. Therefore, following ratio in the judgment of **Arun Trimbakrao Lokare** (supra), this would be a fit case for setting aside order passed by the Competent Authority cum Sub Divisional Officer, Sangamner. I accordingly proceed to pass following order.

O R D E R

- i) The order passed by the Competent Authority-cum-Sub Divisional Officer, Sangamner on 13th June, 2022 is set aside.

- ii) The Competent Authority-cum-Sub Divisional Officer, Sangamner is directed to refer the dispute for the decision to the District Court, within whose jurisdiction the land is situated.
- iii) The amount of compensation along with interest accrued thereon till date shall form suit property. The Competent Authority-cum-Sub Divisional Officer, Sangamner is directed to transfer the entire amount of compensation along with accrued interest to the District Court to whom the dispute is referred.
- iv) The District Court shall invest the deposited amount of compensation in fixed deposit of a Nationalized bank till the decision of the dispute.
- v) The District Court to whom the dispute would be referred is requested to endeavour to decide the dispute as early as possible.
- vi) The writ petition is accordingly allowed. No costs.

[SANDEEP V. MARNE, J.]

bsb/Oct. 22