

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

WRIT PETITION NO.2105 OF 2019

**YUNUSKHA AHMEDKHA
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioner : Mr. G. V. Sukale
AGP for Respondents State: Mr. P. G. Borade
Advocate for Respondent Nos. 2 & 3 : Mr. Deepak S. Manorkar
Advocate for Respondents 4 & 6 : Mr. Vilas Giri h/for
Mr. N. S. Mansingka
Advocate for Respondents 7 & 8 : Mr. S.M. Kshirsagar h/for
Mr. R. R. Chandak

**CORAM : C. V. BHADANG AND
SANDIPKUMAR C. MORE, JJ.**

DATE : 16 JUNE 2022

ORDER:

By this petition, under Article 226 of the Constitution of India, the petitioner is challenging the order dated 12 February 2018 passed by the Sub Divisional Officer, Kannad thereby relegating the parties to the competent court in a dispute as to apportionment of compensation.

2. The petitioner claims that his land is acquired by the National Highways Authority of India (NHAI) in respect of which an award is passed and an amount of Rs.9,88,802/-has been

deposited as compensation. The respondents/objectors claimed that they are entitled to their share in the said compensation. The land acquisition officer who is the competent authority, rejecting the objection, has thereafter stipulated that the amount be deposited with the competent civil court pending obtaining of the orders from the competent Civil Court.

3. We have heard the learned counsel for the parties. Perused the record.

4. Learned counsel for the appellant has submitted that although the competent authority rejected the objection, has erroneously relegated the parties to the civil court. It is the submission of the learned counsel that, it was not open for the competent authority to have waited for the order of the competent court for disbursal of the compensation once no substance was found in the objection.

5. Learned counsel for the respondents/objectors states that the matter has already been referred to the competent civil court and it is registered as LAR No. 46 of 2018, which is pending before the competent court.

6. We have considered the circumstances and the submissions made.

7. Section 3H(4) of the National Highways Act, 1956 reads as under:

“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 competent authority 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.”

It can thus be seen that if any dispute arises as to the apportionment of the amount of compensation, the competent authority has to refer the dispute to the decision of the principal Civil Court of Original jurisdiction within the limits of whose jurisdiction the land is situated. Thus, once there was an objection and dispute had arisen as to the apportionment of the amount of compensation, the competent authority was obliged to refer the same to the decision of the competent civil Court as per section 3H(4) of the Act of 1956.

8. The only contention raised, is that once the competent authority had come to the conclusion that the objection cannot be sustained, the matter could not have been referred to the civil court. The said contention, in our view, cannot be accepted in view of the specific provisions of section 3H(4) of the 1956 Act.

9. It is necessary to note that the reference has already been registered in the year 2018 and is pending before the competent civil court. We therefore, do not find any reason to interfere with the impugned order. The petition is accordingly dismissed.

10. The reference court shall decide the reference in accordance with law as expeditiously as possible and an endeavour shall be made to decide the same within a period of one year from the date of receipt hereof.

11. Parties to cooperate in the time bound disposal of the reference.

SANDIPKUMAR C. MORE, J

C. V. BHADANG, J.

JPChavan