

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

80 WRIT PETITION NO.8964 OF 2022

**SUKHDEO RANGNATH DIGHE
VERSUS
THE NATIONAL HIGHWAYS AUTHORITY OF INDIA THROUGH
ITS OFFICE AND OTHERS**

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Advocate for Petitioner: Mr. Dhage Hemant U
AGP for Respondent/State: Mr. P. K. Lakhotiya

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**CORAM: RAVINDRA V. GHUGE
AND
ARUN R. PEDNEKER, JJ.**

DATE: 06th SEPTEMBER, 2022

PER COURT:

1. The Petitioner has put-forth prayer
clause 'B', as under:-

"B) To issue writ of mandamus or
other writ of like nature or order or
directions, the letter of communication
dated 25.05.2022 issued by the respondent
No.2 to the petitioner may kindly be set
aside and to direct the respondent No.2
The Competent Authority (Land Acquisition
Officer) Or The Sub-Divisional Officer,
Sub-Division Shrirampur to refer the
dispute to the Principal Court of
original civil jurisdiction, and till
decision of the said dispute not to

disburse the compensation amount in favour of the respondent No.3 and for that purpose issue necessary orders."

2. There is no dispute that the Petitioner has already preferred R.C.S. No.382 of 2013, for partition and separate possession of the ancestral property. The suit has been amended and the amended plaint dated 28.08.2019 has also been filed. Issue is with regard to the dispute over the property in between the Petitioner and Respondent No.5. The Petitioner contends that it is an ancestral property. His father's Will Deed has also been assailed in the said suit by the Petitioner.

3. Considering the above, we are of the view that since the Petitioner's claim for compensation would flow from a title that he may hold to the property which is under acquisition and since the said title would be decided only by the Trial Court in the pending suit, that this Petition is disposed off.

4. We are not issuing notice to Respondent Nos.3 to 5, since we are issuing an innocuous direction to the learned Trial Court at Rahuri to decide the said R.C.S. No.382 of 2013, as expeditiously as possible and preferably, on or before 31.03.2023, keeping in view that the suit is more than 9 years old. The litigating parties would cooperate with the Trial Court for the expeditious decision of the said proceedings.

5. At this juncture, the learned Advocate for the Petitioner prayed for a direction that the compensation amount, as and when it would become payable, should not be disbursed to anybody. We are not inclined to entertain this contention since the right, title and interest of the Petitioner is yet to be decided in the Suit. If the Petitioner desires such injunctory orders, he may file an application before the Civil Court.

[ARUN R. PEDNEKER, J.]

[RAVINDRA V. GHUGE, J.]

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