

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

WRIT PETITION NO.13984 OF 2021

RAMLING GANPATI GAVAR AND ANOTHER
VERSUS
THE UNION OF INDIA AND OTHERS

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Advocate for the Petitioners : Shri Chapalgaonkar S.G.
Standing Counsel for Respondents : Shri R.B. Bhosale

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CORAM: SMT. BHARATI H. DANGRE, J.

DATE :- 19th January, 2022

Per Court:

1. The petitioners, who are the owners of the land which came to be acquired for expansion of Dhule-Solapur Highway under the award dated 14.01.2015, are aggrieved by the orders passed by the learned 4th Civil Judge, Senior Division, Osmanabad, on 29.10.2021 thereby, rejecting the applications preferred vide exhibits 95 and 96 seeking withdrawal of proportionate compensation amount.

2. The learned counsel for the petitioners urges that similar such application being preferred by respondent Nos.4 to 6, came to be allowed and by order dated 02.11.2017, 60% of the amount of compensation of the acquired land was permitted to be withdrawn on an undertaking to redeposit the same in case the claim being decided against them. The learned counsel for the petitioners would submit that there is no reason

why a different treatment was accorded to the present petitioners, who are undisputedly owners of the land on the basis of the registered sale deeds in their favour.

3. On perusal of the proceedings of the writ petition, it can be seen that a reference has been made, in the case of the petitioners, to the order dated 23.10.2020 passed in Writ Petition No.1311/2018, on a petition being instituted by the present respondent Nos.3 to 5, who had filed an objection under Section 3H(4) of the National Highways Act before the competent authority and who claimed ownership on the basis of the registered sale deed. Recording that there was dispute with regard to the title and the only course available to the competent authority was to refer the dispute to the Principal Court of original civil jurisdiction as contemplated under Section 3-H(4) of the National Highways Act, the said writ petition was disposed of with a direction to the competent authority to refer the dispute to the concerned court. Meanwhile, the competent authority, by order dated 29.07.2019, has made the reference to the Civil Court vide L.A.R. No.541/2016.

4. Since the reference is already pending before the Civil Court, it is permissible for the petitioners to seek a relief from the said Court. Since it is informed that the petitioners have already sought their impleadment in the said proceedings and upon such impleadment being granted, they are at liberty to take out appropriate application for

permitting them to withdraw the part of compensation, which the learned Judge, if necessary, upon carrying out actual measurement, if he deems expedient, can grant the same. It is ultimately discretion of the learned Judge, whether, to grant such an application.

Nothing more is required to be said.

5. This Writ Petition claiming the relief of setting aside the impugned orders refusing withdrawal of the amount of compensation, cannot be entertained and is dismissed.

kps

(SMT. BHARATI H. DANGRE, J.)