

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

947 WRIT PETITION NO.14809 OF 2021

LAXMAN HARIBA NARHARE
VERSUS
THE SUB DIVISION OFFICER LAND ACQUISITION OFFICER AND
COMPETENT AUTHORITY, LAND ACQUISITION

...

Advocate for Petitioner : Mr. Madde Shrikant B
Advocate for Respondent : Mr. S. S. Deve/Mr. A. B. Dhongade

**CORAM : MANGESH S. PATIL &
Y. G. KHOBRAGADE, JJ.**

DATE : 13.12.2022

ORDER:

1. Heard Mr. Madde, the learned advocate for the petitioner and Mr. Deve, the learned advocate for respondent No.1, who is competent authority under the National Highways Act, 1956.

2. The petitioner was paid an amount of compensation in respect of the land acquired for the national highway project. By the impugned communication, the respondent- authority called upon the petitioner to pay back the money and even informed his bankers to attach his account, on the ground that though the amount of compensation was paid to him since his name was appearing in the ownership column, a lady who was in actual possession was raising a

dispute and refusing to deliver possession and was obstructing construction of the road.

3. The learned advocate Mr. Deve for the respondent-authority, referring to the affidavit-in-reply, submits that in the peculiar facts and circumstances , the respondent- authority had no alternative but to issue communications to protect the money in view of the dispute *inter se* between the petitioner and the lady. He also points out that son of that lady had filed Writ Petition No. 2090 of 2022 which came to be decided on 14 February 2022. Apparently an order dated 21.12.2021 passed by the competent authority was produced before this Court which suggested that he would be making reference to the civil court under section 3-H(4) of the National Highways Act.

4. It does appear that there is some dispute about the entitlement to the compensation and in view of provisions of section 3-H(4), the respondent seems to have decided to make a reference to the Civil Court in view of the dispute being raised by that lady. Even a copy of the communication addressed by the competent authority to that lady dated 21 December 2021 mentions that he would be making such a reference on the basis of which, this Court had passed the order in Writ Petition No. 2090 of 2022.

5. Considering the scheme of the National Highways Act, if the dispute is referred to the Civil Court under section 3-H (4), the rival claims of the petitioner and the lady would be decided in accordance with the law. However, we do not see any provision which would entitle the respondent-authority either to call back the money independently or to seek any attachment by writing to the petitioner's bankers.

6. We quash and set aside the said communications.

7. We make it clear that the amount which has been admittedly received by the petitioner would be subject to the decision of the Civil Court. However, he shall furnish an undertaking before the Civil Court that he would bring back the money as and when directed by that Court.

8. Writ petition is accordingly disposed of.

(Y. G. KHOBRADE, J.)

(MANGESH S. PATIL, J.)

JPChavan