

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

WRIT PETITION NO.548 OF 2019

Pradip Pandharinath Ghuge
Age : 40 years, Occu : Service,
R/o. Plot No.55, Nath Sadan,
Suranan Nangar, Aurangabad

.. Petitioner

Versus

1. The State of Maharashtra
Through the Collector,
Aurangabad
2. Sub-Divisional Officer / Competent Authority,
National Highway No.211 (Aurangabad – Dhule)
Aurangabad
3. The National Highway Authority,
Through its Project Director,
Aurangabad.

.. Respondents

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Advocate for Petitioner : Mr. Sandesh V. Hange
AGP for Respondent / State : Mr. K.N. Lokhande
Advocate for Respondent No.2 : Mr. Ravi Bangar
Advocate for Respondent No.3 : Mr. M.R. Mundhe

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CORAM : SANDEEP V. MARNE, J.

DATE : 11-10-2022

ORAL JUDGMENT :

. Heard.

2. Rule. It is made returnable forthwith. Mr. Lokhande, the learned AGP and Mr. Ravi Bangar and Mr. M.R. Mundhe, the learned

advocates waive service of notice on behalf of the respective respondents.

3. Respondent no.3 tenders his affidavit-in-reply and it is taken on record.

4. The petitioner has filed objections under sub-section (4) of Section 3-H of the National Highways Act, 1956. Complaining that the objections were not being decided, the petitioner filed Writ Petition No.14345 of 2017 in this Court in which the following order was passed.

‘The learned A.G.P submits that petitioner has filed objections before the authority, and the same is not yet decided. **In fact, the same is required to be referred to the Civil Court.** The learned counsel further submits that amount would be disbursed to the respondents. Issue notice to the respondent returnable on 15th February, 2018.
2. A.G.P waives notice for Respondent No.1 State.
3. Status-quo be maintain with regard to the amount.’

5. However, it appears that before the order dated 21.12.2017 was passed, the petitioners objection was already decided and rejected by order dated 07.12.2017. When this fact was brought to the notice of this Court in Writ Petition No.14345 of 2017, this Court disposed of the petition on 15.02.2018 granting liberty to the petitioner to take steps with regard to the order passed on

07.12.2017. Accordingly, the petitioner has filed the present petition challenging order dated 07.12.2017.

6. Perusal of the order dated 07.12.2017 would show that the competent authority has decided the merits of the objection rather than referring the matter to the Court for decision. In fact, in the order dated 21.12.2017 passed in Writ Petition No.14345 of 2017, this Court had made an observation that the objection of the petitioner was required to be referred to the Civil Court. Be that as it may, the issue is no more *res integra* and is covered by the decision of this Court in **Arun S/o Trimbakrao Lokare vs. The State of Maharashtra & Others, Writ Petition No.1949 of 2017** decided on 29.06.2017, wherein it is held that the competent authority cannot decide the objections under sub-section (4) of Section 3-H and is required to refer the objection for adjudication before the Civil Court. Accordingly, the order dated 07.12.2017 passed by the competent authority is set aside with a direction to it to refer the objection of the petitioner for adjudication to the Civil Court.

7. Mr. Ravi Bangar appearing for respondent no.2 and Mr. M.R. Mundhe appearing for respondent no.3 submit that the amount of compensation has already been disbursed.

8. Needless to state that the amount of compensation would form a suit property.

9. With these directions, the petition is partly allowed. Rule is partly made absolute.

(SANDEEP V. MARNE, J.)

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