

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

WRIT PETITION NO.1254 OF 2020

**VIKRAM NIVRUTTI KHOSE
VERSUS
JALINDER GORAKH TALEKAR AND ANOTHER**

...
Advocate for Petitioner : Mr. Choudhari Sushant B
Advocate for Respondent Nos.1 & 2: Mr. Vikram S. Undre

...
CORAM : NITIN B. SURYAWANSHI, J.

DATE : 8th April, 2022

ORDER :

1. The petitioner filed reference bearing Land Acquisition Reference No.545/2016 under Section 3 H(4) of the National Highway Act, 1956 before the learned Joint Civil Judge, Senior Division, Bhoom, District Osmanabad, wherein the Reference Court by the impugned award directed that respondent nos.1 & 2 are the sole owners and interested persons in respect of 487 square meters and 1030 square meters land out of Gut No.127, situated at Mauje Ijora, Taluka Vashi, District Osmanabad and hence, they only are entitled for the compensation amount. The said award was passed as the petitioner failed to file his say and in spite of opportunity, he failed to lead any oral or documentary evidence. Therefore, the evidence on affidavit filed by the respondents has gone unchallenged.

2. The petitioner contends that on many dates, the petitioner and his Advocate were present and due to communication gap and on account of fault of his Advocate, his say was not filed and the cross-examination of the respondents was not conducted.

3. The learned Advocate for the respondents strongly opposed the prayer of the petitioner contending that since the award is passed in favour of respondent nos.1 and 2 and the compensation amount is deposited, he submits that the respondents be permitted to withdraw the compensation amount.

4. Taking into consideration the fact that reference is initiated as the petitioner objected to the award passed in favour of respondents by the learned acquisition officer claiming that he is entitled for the compensation amount. The petitioner needs to be given fair opportunity of hearing. In that view of the matter, this Court is inclined to allow the present petition.

5. In view of the fact that the respondents are claiming that they have purchased the land in question from the Uncle of petitioner and the award is passed in their favour, the respondents are entitled to withdraw 50% of the amount of compensation on furnishing security to the satisfaction of the Reference Court. In the result, the following

order is passed:

ORDER

(i) The impugned judgment and award dated 02/08/2019 passed by the learned Civil Judge, Senior Division, Bhoom, is hereby quashed and set aside subject to the petitioner paying costs of Rs.10,000/- to the High Court Legal Services, Sub-Committee, Aurangabad within a period of two weeks from today.

(ii) The L.A.R. No.545/2016 is remanded back to the learned Joint Civil Judge, Senior Division, Bhoom District Osmanabad for decision on merits. The same shall be decided within a period of six months from today, after hearing the concerned parties.

(iii) The parties shall co-operate for expeditious disposal.

(iv) The respondents are permitted to withdraw 50% of the compensation amount deposited in the Reference Court on furnishing surety to the satisfaction of the Reference Court and the respondents shall also file undertaking.

(v) With these directions, writ petition stands allowed.

[NITIN B. SURYAWANSHI, J.]