

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****WRIT PETITION NO. 3515 OF 2021****Swati Sunil Punde****..... Petitioner****VERSUS****The Competent Authority,****Land Acquisition and Sub-Divisional Officer,****Malshiras Division, Malshiras & Ors.****..... Respondents**

Mr. Surel S.Shah, a/w. Mr.Rahul Kasbekar for the Petitioner.

Mr.P.S.Dani, Senior Advocate, i/b. Ms. Manisha A.Devkar for the Respondent Nos. 2 and 3.

Mr.Rajan S.Pawar, A.G.P. for the State – Respondent Nos. 1 and 4.

CORAM : R.D. DHANUKA &**S.M.MODAK, JJ.****DATE : 25TH FEBRUARY, 2022.****P.C:-**

Rule. Mr.Pawar, learned A.G.P. waives service for the respondent nos. 1 and 4. Mr.Dani, senior counsel waives service for the respondent nos. 2 and 3. By consent of parties, writ petition is heard finally.

2. By this petition filed under Article 226 of the Constitution of India, the petitioner seeks writ of certiorari for quashing and setting aside the impugned judgment and order dated 12th July, 2021 by

rejecting the application filed by the petitioner referring the dispute to the Civil Court and for other reliefs.

3. Mr.Dani, learned senior counsel for the respondent nos. 2 and 3 invited our attention to the averments made in paragraph (6) of the affidavit in reply dated 15th December, 2021 filed in this petition and would submit that insofar as land bearing Gat No. 1081/2/B is concerned, his clients would though accept the compensation in respect of the said land in addition to the other lands mentioned in the said paragraph, the compensation relating to the said land in respect of GAT No.1081/2/B will deposit the said amount in the fixed deposit of the nationalized bank for a period of six months from the date of such fixed deposit. Statement is accepted.

4. Mr.Shah, learned counsel for the petitioner states that except plot bearing Gat no. 1081/2/B admeasuring 1 hector, 63R, the petitioner has no claim in respect of the other lands mentioned in paragraph (6). statement is accepted.

5. If the amount of compensation is already disbursed by the State Government in favour of the respondent nos. 2 and 3 in respect of the

lands described in paragraph (6) of the affidavit in reply, the respondent nos. 2 and 3 are allowed to receive such compensation in respect of all the lands mentioned therein subject to the respondent nos. 2 and 3 depositing the compensation in respect of the land bearing no.1081/2/B in the fixed deposit as directed in the earlier paragraph at this stage.

6. It is made clear that Ex.5 application already filed by the petitioner before the learned Civil Judge, Junior Division, Malshiras in Regular Civil Suit No. 946 of 2020 shall be decided by the learned Civil Judge, Junior Division within a period of four months from the date of communication of this order. Both the parties have agreed not to apply for any unnecessary adjournment before the learned Civil Judge, Junior Division and co-operate with the learned Civil Judge, Junior Division and with each other in disposing of the interim application (Ex.5) within a period specified in this order.

7. Insofar as the deposit of the amount in the fixed deposit is concerned, the learned Civil Judge, Junior Division shall pass an appropriate order also in respect of the said fixed deposit depending upon the order that would be passed under application under Ex.5. It is

made clear that no views in respect of the said compensation relating to the Gat No. 1081/2/B are expressed by this Court. All contentions of both the parties are kept open.

8. *Ad-interim* relief granted by this Court stands modified by this order.

9. Writ petition is disposed of in the aforesaid terms. No order as to costs.

10. The respondent no.2 agrees to file an undertaking in line with the statement made before this Court before the Trial Court within one week from today and shall serve a copy thereof upon the plaintiff's advocate simultaneously. If any application for amendment of the plaint is made by the petitioner herein before the learned Trial Judge, the said application shall be considered on its own merits. The Trial Court to decide the suit without being influenced by the observations made in the impugned order. Rule is made absolute accordingly. No order as to costs.

[S.M.MODAK, J.]

[R.D.DHANUKA, J.]