

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 6783 OF 2021

VAISHALI
ANIL
TIKAMDigitally signed
by VAISHALI
ANIL TIKAMDate:
2022.09.17
11:25:45 +0530**Akshay Vishnu Patil****...Petitioner****Vs.****The State of Maharashtra****Thr. Sub-Divisional Officer,****Sub-Div. Miraj, Dist. Satara and Ors.****...Respondents**

* * * *

Mr. B.A. Lawate for Petitioner**Mr. A. P. Vanarase, AGP for State/Respondent No.1****Mr. Umesh R. Mankapure a/w. Ms. Rati Sinhasane for
Respondent Nos. 2 to 6****Mr. Amar Parsekar i/b. Shantane Raktate for
Respondent Nos.7 and 8****Coram : Sandeep K. Shinde, J.****Dated: 15th September, 2022.****P.C. :**

1. On a Reference under Section 3H (4) of the National Highways Act, 1956, the Learned District Judge, upon appreciating the rival claims founded on documentary evidence, like orders in the previous suits between the parties, concerning the Gat Nos. 195 and 312, partly allowed the Reference, by directing the Respondent Nos. 1 to 7 to file an undertaking before

Court that in the event of passing any adverse decree against them in Regular Civil Suit No. 481 of 2018 instituted by the Petitioner (Original Respondent No.8 in the Reference) they shall bring back compensation amount to the extent of share of the Petitioner in the aquired land and deposit in the Court.

2. Impugned order calls for no interference in Supervisory Jurisdiction, as it involves disputed questions of facts.

3. It is evident from the material on record that two parcels of land, bearing Gat Nos. 195 and 312, which were acquired by the Authority under the Highways Act, had not fallen to the share of Ramchandra - great grandfather of the Petitioner. Evidence shows that Bhimrao and Ramchandra were brothers. In partition these two parcels of land had fallen to the share of Bhimrao. Whereafter, Indirabai, Sopan, Ishwara, members of Bhimrao's branch, sold these parcels of land by sale deeds to the Respondents. Further, it is evident that, Maruti (son of Ramchandra) and grandfather of Petitioner, had partitioned the lands which had fallen to the share of Ramchandra. Moreover, Maruti -grandfather of Petitioner, in his life time had filed a suit to declare that the sale deeds concerning

these two parcels of land executed in favour of the Respondents, were not binding on him. That suit was dismissed in default. In any case, it is evident that, Authorities had passed Award in respect of these two parcels of land on 21st August, 2008. Thereafter, the Petitioner instituted the suit on 13th October, 2018, seeking decree of partition of land Gat Nos. 195 and 312. Therefore, apparently, suit has been filed merely to stake claim in the compensation awarded in respect of these two parcels of land under the National Highways Authority Act.

4. For all these reasons, the impugned order calls for no interference. Petition is dismissed.

(Sandeep K. Shinde, J.)