

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6891 OF 2021

Smt.Mathura Kondu Jadhav
Through POA Meenakshi Manohar
Channe ...Petitioner

Versus

Smt.Shashikala Shantaram Jadhav & Ors. ...Respondents

Mr.Shriram S. Kulkarni for the Petitioner.
Mr.R.S. Datar, for the Respondent Nos.1 to 10.
Mrs.M.S. Bane, AGP, for the Respondent-State.

CORAM : S.V. GANGAPURWALA &
M.G. SEWLIKAR, JJ.

DATE : 27 APRIL 2022

P.C:-

. The land is acquired. The Petitioner has filed an objection before the Competent Authority on the ground that the Petitioner is also co-sharer of the property acquired and is entitled for the compensation amount. The request was made to refer the matter to the Principal Court of Civil jurisdiction.

2. The learned counsel for the Petitioner submits that the Petitioner is daughter of Kondu. The Petitioner and the contesting Respondents are claiming through Kondu. The Respondents has denying the relationship of the Petitioner with

them. In such a denial the matter is required to refer to the Civil Court as per Section 35 of the MIDC Act. It is contended that the Petitioner has already filed Civil Suit for partition and separate possession.

3. The learned counsel for the Respondents submits that there is no proof that the Petitioner is daughter of Kondu. The said stand is specifically taken by the Respondents.

4. We have considered the submission. The Petitioner has produced genealogy and school leaving certificate and has further contended that the Petitioner is known as Mathura @ Saraswati, and is daughter of Kondu. Of course the Petitioner will have to prove the relationship with Kondu. The same will have to be proved before the Civil Court of Principal Jurisdiction as contemplated under Section 35 of the MIDC Act.

5. In light of the above, we pass the following order.

ORDER

(i) The impugned order quashed and set aside.

(ii) The Respondent-Competent Authority shall refer the dispute to the Civil Court as contemplated under Section 35 of the MIDC Act.

(iii) The reference Court shall decide the reference forwarded by the Competent Authority under the order of this Court and Civil Suit bearing RCS No.24 of 2019 together preferably within six months from today.

(iv) The parties may lead common evidence.

(v) The Respondents herein i.e. Respondent Nos.1 to 10 may withdraw the amount of the compensation except to the extent of 1/5th. The 1/5th of the amount shall be transmitted to the Principal Civil Court. The said 1/5th amount be disbursed in tune with the judgment delivered by the reference Court.

(vi) All contentions of the respective parties are kept open.

(vii) The Writ Petition is disposed of.

(M.G. SEWLIKAR, J.)

(S.V. GANGAPURWALA, J.)