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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO.4028 OF 2021
IN
WRIT PETITION NO.4536 OF 2021**

**ALONG WITH
WRIT PETITION NO.4536 OF 2021**

Rajendra Babubhai Chauhan .. Applicant/Respondent no.7

In the matter between

Shardaben Bhagwansinh Chauhan .. Petitioner

Versus

Maniben Bhagwansinh Chauhan & Ors. .. Respondents

Ms. Deepti Panda a/w Ms. Urvi Shah i/by I.R. Joshi and Co. for the applicant.

Mr. Mandar Soman a/w Mr. Hardik Joshi for the original petitioners.

**CORAM : R.D. DHANUKA AND
S.M. MODAK, JJ.**

DATE : 2nd March 2022

P.C.:-

. By this interim application, the applicant (respondent no.7) seeks an order and direction to dispose of the writ petition by directing the respondent no.11 to file a reference before the District Court which is the Competent Court of jurisdiction being the Principal Civil Court of Original Jurisdiction at Silvassa for determination of any rights, if any, of the petitioner as to the compensation and if so, the quantum to which the petitioner is entitled to.

2. In the writ petition, the petitioner seeks various reliefs in respect of the land in question described in prayer clause (c) of the petition.

3. Mr.Soman, learned counsel for the original petitioner, on instructions, states that his client has no objection if the writ petition is disposed of by directing the respondent no.11 to file a reference before the District Court. Statement is accepted.

4. It is however, submitted that his client has filed an application under Order XXIII Rule 3A of the Code of Civil Procedure, 1908 before the Civil Judge, Senior Division in Special Civil Suit No.26 of 2020 inter alia praying for setting aside the consent terms entered into between the original plaintiff and the defendants in the said suit excluding the original petitioner and the same application is pending.

5. In view of the statement made by the learned counsel for the original petitioner, the interim application is allowed in terms of prayer clause (a).

6. The papers and proceedings to be referred to the Civil Judge, Senior Division, Silvassa by the District Court in compliance with the Circular dated 16th September 2014 expeditiously.

7. The parties are at liberty to apply for withdrawal of the amount in the said reference under Order XXIII Rule 3A of the CPC which is still pending. Learned Collector is directed to deposit the compensation awarded in respect of the land in question before the Civil

Judge, Senior Division within two weeks from today. Learned Collector is directed to invest the balance amount lying with him regarding the compensation payable for the lands having acquired with the Civil Judge, Senior Division within two weeks from the date of communication of this order.

8. The original petitioner is directed to convey this order to the respondent no.11 for information and compliance. The Civil Judge, Senior Division, Silvassa shall invest the said amount that would be deposited in a fixed deposit in any nationalized bank initially for a period of one year and for a like period till disposal of the suit.

9. If any of the parties apply for withdrawal of the amount, if any, the same shall be decided on its own merit. It is made clear that this Court has not expressed any views on merit of the application filed by the original petitioner under Order XXIII Rule 3A of the CPC and also to the reference that would be made by the District Court in compliance with the Circular dated 16th September 2014 and this order.

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

S.M. MODAK, J.

R.D. DHANUKA, J.