

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4668 OF 2022

Narayan Walku Meher since deceased through
legal heirs Surekha Narayan Meher & others. ... Petitioners.

V/s.

State of Maharashtra and others. ... Respondents.

Mr.J.D.Khairnar with Mr.D.K.Botkondle for the Petitioners.

Ms.R.M.Shinde, AGP for the State.

Mr.Sandeep Ladda with Sarvesh Dixit, Adesh Jadhav and Adnan
Ansari for Respondent No.2.

Mr.Girish R. Agrawal for Respondent No.4.

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CORAM : **NITIN JAMDAR AND
SHARMILA U. DESHMUKH, JJ.**

DATE : **19 September 2022.**

P.C. :

Heard learned counsel for the parties. The petition is
taken up for disposal.

2. In light of the consensus between the contesting parties,
it is not necessary to detail the facts of the case. The Petitioners have
challenged the order passed by the Competent Authority- Sub-
Divisional Officer under section 3H(4) of the National Highways
Act, 1956 referring the matter of payment of compensation to the
competent court under the Act.

3. The acquisition proceeding took place in respect of the property situated of village- Eranjad, taluka- Ambarnath, district- Thane bearing Survey No.123/1. The learned counsel for the Petitioners and the Respondents-Objectors state that the dispute between them is not as to the title but the dispute has arisen because of sub division of the property Survey No.123/1 and from which sub-division that the land is acquired and once this aspect is decided, the owner of the said acquired land would get the compensation. As far as respective ownership of the sub-divided plot, also there is no dispute before us and, therefore, the learned counsel for the parties including objector state that it is not necessary to refer the matter to the competent court and this issue as to which portion has been acquired can be decided by the Competent Authority itself.

4. The learned AGP, on instructions, states that it is the Respondent- objector who has taken various objections and at his instance the matter had to be referred to the competent court. But now the learned counsel for the Respondent- objector, on instructions, states that the controversy is only limited to what is narrated above and the objector has no objection to the Competent Authority to decide the above-mentioned aspect. The learned counsel for the Respondent- objector, on instructions, assures that the Respondents- objector will co-operate with the adjudication/ resolving of the above aspect.

5. In light of the above position, the impugned order dated 6 August 2021 is quashed and set aside. Respondent No.3-Competent Authority will proceed as per law in light of what is stated above and take necessary decision. Subject to earlier time-bound commitments and urgent public duties, the Competent Authority will consider adjudicating/ resolving of the issue within twelve weeks.

6. Writ petition is disposed of in the above terms.

(SHARMILA U. DESHMUKH, J.)

(NITIN JAMDAR, J.)