

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

WRIT PETITION NO.2930 OF 2021

Suresh Bapu Dupte and anr. ... Petitioners

V/s.

State of Maharashtra and anr. ... Respondents

**PRIYA
RAJESH
SOPARKAR**

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PRIYA RAJESH
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Date: 2022.03.25
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Dr.Uday P.Warunjikar alongwith Mr.Aditya Kharkar and Mr.Jenish Jain,
Advocates for the Petitioners.

Mr.R.M.Shinde, AGP for Respondent No.1.

Mr.Anil Jarial i/by M/s Legal Associates for Respondent No.2.

**CORAM : S. V. GANGAPURWALA AND
VINAY JOSHI, JJ.
DATE : 24th MARCH, 2022.**

P.C.:-

1. The objection filed by the Petitioners under Section 3H(4) of the National Highways Act, 1956 is rejected.

2. We have heard the learned counsel for the Petitioners, the learned AGP and the learned Advocate for Respondent No. 2.

3. The learned counsel for the Petitioners contends that an Agreement for Sale is executed on 5th August, 2016 by the Petitioners in favour of the Respondent No.2 alongwith the Power of Attorney. The notification under Section 3 is issued on 3rd March, 2020. On 6th March, 2020 on the basis of Power of Attorney the Respondent No.2 executed a sale deed in his own favour. The competent authority

comes to the conclusion that the dispute between the parties is of civil nature.

4. The learned Advocate for the Petitioners submits that the competent authority had come to the conclusion that the dispute is of civil nature, he ought to have referred it to Civil Court under Section 3H(4) of the National Highways Act, 1956.

5. The learned counsel for the Respondent submits that the respondent has paid the entire consideration amount to the Petitioners. The Respondent has become owner of the properties. In view of that the matter is not required to be referred to the Civil Court. The competent authority has rightly passed the order.

6. We have considered the submissions. The competent authority while rejecting the objection filed by the Petitioners, has observed that the objection is of a civil and private nature.

7. If the dispute with regard to the ownership/title exists, then under Section 3H(4) of the National Highways Act, the competent authority has to refer it to the Civil Court.

8. In the light of that, the impugned order is set aside.

9. The competent authority shall refer the objection filed by the Petitioners to the concerned Principal Civil Court of original jurisdiction. The amount is already withdrawn by the Respondent No.2. The withdrawal of the amount shall be subject to the decision taken by the Principal Civil Court. The competent authority shall refer the same to the Civil Court preferably within a period of six weeks.

10. Upon the matter being referred to the Civil Court, the Respondent No.2 shall furnish solvent security of the amount withdrawn by the Respondent No.2. The further order with regard to the disbursement of the amount shall be passed by the Civil Court in tune with the final decision taken.

11. With the above observations and directions, the Writ Petition stands disposed of.

(VINAY JOSHI, J.)

(S.V.GANGAPURWALA, J.)

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