

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

WRIT PETITION NO.3692 OF 2021

TRUSHA
TUSHAR
MOHITE

Digitally signed
by TRUSHA
TUSHAR MOHITE
Date: 2022.03.17
17:30:22 +0530

Renuka Balasaheb Bhosale

..... Petitioner

Vs.

Namdev Krushnat Jagdale and Ors.

..... Respondents

Mr.Amit Jamsandekar a/w Ms.Archita Gharat i/b
Mr.Prabhakar M. Jadhav for the Petitioner

Mr.Purushottam G. Chavan for the Respondent nos.1 and 2

Mr.R.S.Pawar, A.G.P. for the State

**CORAM: S.V.GANGAPURWALA &
VINAY JOSHI, JJ.**

DATED : MARCH 16, 2022

P.C.

. Heard.

2. The objection filed by the petitioner referable to section 3-H(4) of the National Highways Act, 1956 is rejected thereby the present petition.

3. The learned counsel for the petitioner submits that in spite of registered release deed executed by the petitioner in the year 1990, subsequently, there was partition amongst the petitioner and Respondent nos.1 and 2. The said division was made under section 85 of the Maharashtra

Land Revenue Code, 1966. Part of the petitioner's property is under acquisition. Amount of compensation has not been paid to the petitioner. The Competent Authority in casual manner has rejected objection filed by the petitioner.

4. The learned counsel for the Respondent nos.1 and 2 submits that the land of the petitioner is not affected in acquisition. The registered release deed has been executed by the petitioner thereby releasing their rights. Registered release deed has not been challenged by the petitioner. Same is in-tact even today. After having released the rights in favour of the respondents, petitioner now cannot turn around the claim otherwise. According to the learned counsel, as no part of the property of the petitioner is acquired, Petitioner is not entitled for compensation and the competent authority has rightly passed the order.

5. The learned A.G.P. submits that measurement of the land was conducted and land of Respondent Nos.1 and 2 was acquired and the land of petitioner was not affected in acquisition.

6. We have considered the submissions. In case the dispute exists with regard to the title of the land amongst interested persons, recourse available to competent authority under section 3-H(4) of the National Highways Act, 1956 is to refer the same to the Principal Civil Court of Original Jurisdiction.

7. In the present matter, it appears that the petitioner

executed registered release deed. It also appears that in the year 2018 some mutation entry was effected between the parties in respect of the same land. In fact the competent authority while deciding the objection filed by the petitioner ought to have given some reasons. The impugned order is bereft of reasons. The reasons are the lifeline of an order passed by any quasi judicial authority. Reasons depict the application of mind of the person passing the order. Competent Authority has not discussed the case put forth by the petitioner as well as the respondents and altogether on new premise has rejected it. It was nobody's case that the sale of the property has taken place. In view of the fact that the dispute with regard to the title of the land exists and the competent authority has failed to consider the prima facie case put forth by both the parties, we pass the following order:

- a. Impugned order is quashed and set aside.
- b. Competent authority shall refer the dispute to the concerned Principal Civil Court of Original Jurisdiction. Same shall be referred preferably within three months from today.
- c. Principal Civil Court of Original Jurisdiction shall decide the matter on its own merits preferably within one year from the date of receipt of the proceedings.
- d. Respondent nos.1 and 2 have already withdrawn the amount under the award. We are not disturbing the same.

However, with a view to secure the amount, Respondent nos.1 and 2 shall furnish solvent security to the extent of the 1/3 amount to the satisfaction of the court within a period of one month from the date of appearance of the parties before the District Court.

e. The respondent Nos.1 and 2 shall also give an undertaking to the District Court that if the District Court directs any payment of interest, then respondent Nos.1 and 2 shall comply with the same.

f. The Court shall in tune with the judgment delivered by him take decision with regard to the disbursement of the amount. It is made clear that we have not conclusively decided the claims of the parties.

g. All contention of the respective parties are kept open.

h. Writ Petition stands disposed of.

(VINAY JOSHI, J.)

(S.V.GANGAPURWALA, J.)