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

WRIT PETITION NO. 13131 OF 2017

Shankar Pithu Shirke

... Petitioner

V/s.

The Special Land Acquisition Officer,
Raigad, Alibag and Ors.

... Respondents

Mr. Shriram S. Kulkarni for the Petitioner

Mr. B.V. Samant, AGP for the Respondents 1 and 2

Mr. Sanskar Marathe i/b. Sahil Mahajan for Respondents 3 to 6

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

DATE : 04 OCTOBER 2022

P.C. :-

Heard the learned Counsel for the parties.

2. The Petitioner has challenged the order passed by the Respondent No.1 – Special Land Acquisition Officer, Raigad on 8 August 2017 refusing to refer the dispute raised by the Petitioner regarding the apportionment of the compensation to the concerned Court.

3. In view of the consensus at the bar it is not necessary to detail the facts of the case. On 31 December 2011, a notification under Section 4 of the Land Acquisition Act, 1894 was issued in respect of land situated at Village - Varsai, Taluka - Pen, District - Raigad for Balganga Dam Project declaration under Section 6 was thereafter issued and an Award was passed by the Respondent No.1 on 18 April 2015. Notices under Section 12(2) of the Land Acquisition Act were issued by the Respondent No.1. On 4 September 2015, the Respondent Nos. 3 to 6 filed an application with the Respondent No.1 for division of the compensation amongst the Petitioner and Respondent Nos. 3 to 6. On 8 March 2016, the Petitioner filed objections.

4. By the impugned order the Respondent No.1 held that there exists no dispute and there is no need to refer the matter to the decision of the Court as per Section 30 of the Act of 1894. This stand is not correct. Perusal of the impugned order itself would indicate that a dispute had arisen as envisaged under part 4 of the Act of 1894 and the Collector – Respondent No.1 was obliged to refer the same to the decision of the Court. There is no debate as regards this position before us, however, it is pointed out to us that pursuant to the impugned order, part of the amount has been disbursed and even the Petitioner has received the part of the compensation. If the dispute is to be referred to the Court, such

disbursement would be subject to the outcome of the decision of the Court.

5. Accordingly, the Writ Petition is disposed of by directing the Respondent No.1 to refer the dispute that has arisen in respect of the compensation related to the acquisition in question to the Court within a period of six weeks from today. The payment received by the Petitioner and the Respondents pursuant to the impugned order are subject to outcome of the decision of the Court. The Respondent No.1 will deposit the balance amount of compensation in the Court as per Section 31 of the Act of 1894 within a period of six weeks.

6. The reference made to the Court will be decided on its own merits without being influenced by the observations made in the impugned order.

SHARMILA U. DESHMUKH, J.

NITIN JAMDAR, J.

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