

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 4502 OF 2022

Shabbir Hussain Shakir Hussain
..VS..
State of Maharashtra & others

WITH

WRIT PETITION NO. 4146 OF 2022

Shabbir Hussain Shakir Hussain
..VS..
State of Maharashtra & others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. H.R. Gadhia, Advocate for petitioner.
Mr. N.S. Rao, A.G.P. for respondent Nos.1 to 3.
Mr. N.B. Kalwaghe, Advocate for respondent No.4.

CORAM : SUNIL B. SHUKRE AND
VALMIKI SA MENEZES, JJ.

DATED : 05.09.2022

Heard.

2. In both these petitions, the relief claimed is regarding issuance of a direction for making a reference of the dispute regarding apportionment of the compensation due and payable on account of compulsory acquisition of land under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short "the Act of 2013"). It appears that objections have also been raised in this regard by the petitioner, who has filed both these petitions, on 08.06.2022 apparently under Section

76 of the Act of 2013. Whenever the dispute regarding right to receive the compensation and/or apportionment of the compensation is raised, it is required to be referred by the Collector who is a competent authority. For making a reference of such a dispute, it is necessary that the Collector is satisfied about the fact that there is indeed a dispute involved between the claimants. Existence of such a dispute can be shown only when there is some evidence of ownership or interest of the claimant in the land acquired by the State.

3. A useful reference in this regard may be made to the view taken by the Co-ordinate Division Bench of this Court in the case of *Sayed Mohamed Shah Abdul Hamid Kadri Vs. State of Maharashtra and another, 2005(4) Mh.L.J. 1060*. The Division Bench has held that when any person interested wants to raise a dispute as regards the entitlement of the compensation to himself or dis-entitlement of compensation to any other person interested in the matter, such person has necessarily to substantiate his claim or dispute by necessary material or evidence in support of such an objection. In the present cases, except for contending that the petitioner is the owners of the lands acquired by virtue of the petitioner being the legal-heir of the common ancestor Kikabhai, there is no material or any document of title or interest placed on record by the petitioner to substantiate his claim.

4. Of course, it is true that the petitioner has filed civil suits against respondent No.4 in these petitions contending that he is the owner of the lands acquired by the State. But, even in these suits, no *prima facie* finding has been recorded by the Civil Court regarding ownership or interest of the petitioner in the subject land. Without there being any document or material available on record or in the absence of any *prima facie* finding recorded by the Civil Court, we do not think that any reference as contemplated under Section 76 of the Act of 2013 can be made by the Collector.

5. Mr. Kalwaghe, learned counsel for respondent No.4 submits that in the civil suits not a single document has been placed on record by the petitioner to support the contention that he is the owner of the subject land. If this is the position, we do not think that the petitioner would have any right to prosecute his remedy under Section 76 of the Act of 2013.

6. Apart from what is stated above, the petitioner appears to have prematurely filed these petitions, which is evident from the fact that objections were filed on 08.06.2022 and these petitions came to be filed on 16.07.2022 and 02.07.2022. If the petitioner was really interested in prosecuting the above referred remedy, the petitioner ought to have afforded some reasonable time to the Collector to apply his mind and take an appropriate decision in the matter. The petitioner has

not allowed the Collector to do so. On this count also, the count of prematurely filing of these petitions, these petitions cannot be entertained by this Court.

7. In the result, we find that these petitions are not maintainable and are liable to be dismissed summarily.

8. These writ petitions are dismissed accordingly. No costs. The interim relief already granted by this Court stands vacated.

(VALMIKI SA MENEZES, J.)

(SUNIL B. SHUKRE, J.)

Kirtak