

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

WRIT PETITION NO. 4246 OF 2019

Santabai Kisan Arewar

Vs.

Sub-Divisional Officer @ Land Acquisition Officer,
Umarkhed and others

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

Court's or Judge's orders

Mr. V.N. Patre, Advocate for petitioner.

Mr. K.L. Dharmadhikari, Advocate for respondent/State.

Mr. R.L. Khapre, Senior Advocate a/by Mr. D.R. Khapre, Advocate
for respondent Nos.2 to 5.

CORAM : MANISH PITALE, J.

DATED : 15.03.2022.

By this petition, the petitioner has challenged the order dated 11/06/2019 passed by respondent No. 6 i.e. Land Acquisition Officer whereby an objection raised on behalf of the petitioner for disbursal of amount pursuant to the land acquisition proceeding has been rejected. The petitioner claimed that when such an objection was raised under the provisions of Section 3-H (4) of the National Highways Act, 1956, respondent No.1 should have referred the matter to the Civil Court.

2. It is also undisputed position that the petitioner has filed Regular Civil Suit No.51 of 2017 before the Court of Civil Judge, Junior Division, Umarkhed, District Yawatmal for partition and separate possession wherein she is claiming 1/6th share in the

property which was subject matter of the land acquisition proceedings.

3. On 19.06.2019, while issuing notice in the present Writ Petition, this Court had directed that there shall be no disbursement of the amount of compensation until further orders by this Court. As a consequence, the amount of compensation i.e. Rs.25,39,479/- is lying with respondent No. 1 i.e. Land Acquisition Officer.

4. Today, the affidavit has been tendered on behalf of respondent Nos. 2 to 5, which is taken on record. By the said affidavit, the respondents have stated that without prejudice to their rights and contentions, out of the aforesaid amount of compensation lying with respondent No.1, 1/6th amount may be transferred to the aforesaid Court where the suit filed by the petitioner is pending and the balance amount may be disbursed to the respondent Nos. 2 to 5.

5. The petitioner does not have any specific objection to the aforesaid proposal, so long as the amount so transferred to the concerned Court is invested and it earns appropriate interest in any Nationalised Bank.

6. The aforesaid amount of Rs.25,39,479/- lying with respondent No. 1 may have earned interest. Accordingly, this petition is disposed of as follows:

(a) The respondent No. 1 i.e. Land Acquisition Officer, shall transfer 1/6th of the aforesaid amount of compensation lying with it along with proportionate interest accrued, if any, to the Court of Civil Judge Junior Division, Umarkhed, District-Yawatmal in Regular Civil Suit No. 51/2017.

(b) Remaining 5/6th share, along with proportionate interest, if any, shall be disbursed by the respondent No. 1 in favour of respondent Nos. 2 to 5.

(c) The Court of Civil Judge Junior Division, Umarkhed, District-Yawatmal, shall invest the amount so received from respondent No. 1 in any Nationalized Bank during the pendency of Regular Civil Suit No.51/2017. The disbursement of the said amount shall be subject to the final result of the aforesaid suit.

7. It is made clear that the aforesaid direction is given without prejudice to the rights and contentions of the rival parties.

8. The Writ Petition stands disposed of.