

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.831 OF 2023

**MURLIDHAR KACHRU WAGH AND ANOTHER
VERSUS
THE UNION OF INDIA THROUGH ITS SECRETARY AND OTHERS**

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Mr. Ganesh A. Gadhe, Advocate for petitioners
Mr. Amol N. Patale, Advocate for respondent Nos. 1, 3 and 4
Mr. D. R. Kale, Government Pleader for the State

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**CORAM : MANGESH S. PATIL &
S. G. CHAPALGAONKAR, JJ.**

DATE : 20.01.2023

PER COURT :-

We have heard the learned advocate for the petitioners and the learned advocate who appears for respondent Nos.1, 3 and 4 as also the learned Government Pleader.

2. An award was passed under the National Highways Act. Compensation in respect of the disputed land was not disbursed and no person was mentioned in the award to receive the compensation and it was vaguely mentioned that the compensation would be payable according to the revenue record.

Apparently, not only the name of the petitioners but that of MSEDCL stands recorded in the revenue record.

3. It does appear that at the request of the petitioners, the matter was being considered by the respondent No.4 which is a competent authority. It had communicated with the respondent No.6 Superintendent of Land Records seeking a measurement and latter kept on refusing it on the ground that the former had no power to undertake a review under that Act.

4. The fact remains that whether the petitioners are entitled to have the compensation in its entirety or otherwise is the matter which is squarely covered under Section 3H(4) of the National Highways Act. The respondent No.4 in exercise of the power to make a reference under that provision could have easily resorted to it instead of indulging in repeated correspondence with the respondent No.6.

5. Whether the petitioners alone are entitled to receive the entire compensation or only a part thereof would be the factual dispute which can be resolved only if the procedure contemplated under Section 3H(4) of the Act is resorted to.

6. We dispose of the writ petition by directing the respondent No.4 to now make a reference on the representations/applications made to it by the petitioners, in the light of Section 3H(4) of the National Highways Act and our decision in the matter of *Arun Trimbakrao Lokare Vs. The State of Maharashtra; (WP No.1949/2017 dtd. 29.06.2017)*. The reference shall be made within three weeks.

[S. G. CHAPALGAONKAR, J.]

[MANGESH S. PATIL, J.]

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